SENATE BILL 489.

EIGHT HOURS FOR LABORERS ON GOVERNMENT WORK.

ARGUMENTS

BEFORE THE

COMMITTEE ON EDUCATION AND LABOR

OF THE

UNITED STATES SENATE.

SECOND SESSION FIFTY-EIGHTH CONGRESS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1904.

EIGHT HOURS FOR LABOR ON GOVERNMENT WORK.

ARGUMENTS BEFORE THE COMMITTEE ON EDUCATION AND LABOR OF THE UNITED STATES SENATE ON THE BILL S. 489, ENTITLED "A BILL LIMITING THE HOURS OF DAILY SERVICE OF LABORERS AND MECHANICS EMPLOYED UPON WORK DONE FOR THE UNITED STATES OR FOR ANY TERRITORY OR FOR THE DISTRICT OF COLUMBIA, AND FOR OTHER PURPOSES."

[Copy of bill under consideration, S. 489, Fifty-eighth Congress, first session.]

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 12, 1903.

Mr. MCCOMAS introduced the following bill; which was read twice and referred to the Committee on Education and Labor.

A BILL limiting the hours of daily service of laborers and mechanics employed upon work done for the United States or for any Territory or for the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every contract hereafter made to which the United States, any Territory, or the District of Columbia is a party, and every such contract made for or on behalf of the United States or any Territory or said District, which may require or involve the employment of laborers or mechanics shall contain a provision that no laborer or mechanic doing any part of the work contemplated by the contract, in the employ of the contractor or any subcontractor contracting for any part of said work contemplated, shall be required or permitted to work more than eight hours in any one calendar day upon such work; and every such contract shall stipulate a penalty for each violation of such provision in such contract of five dollars for each laborer or mechanic for every calendar day in which he shall be required or permitted to labor more than eight hours upon such work; and any officer or person designated as inspector of the work to be performed under any such contract, or to aid in enforcing the fulfillment thereof, shall, upon observation or investigation, forthwith report to the proper officer of the United States, or of any Territory, or of the District of Columbia, all violations of the provisions in this Act directed to be made in every such contract, together with the names of each laborer or mechanic violating such stipulation and the day of such violation, and the amount of the penalties imposed according to the stipulation in any such contract shall be directed to be withheld by the officer or person whose duty it shall be to approve the payment of the moneys due under such contract, whether the violation of the provisions of such contract is by the contractor or any subcontractor. Any contractor or subcontractor aggrieved by the withholding of any penalty as hereinbefore provided shall have the right to appeal to the head of the Department making the contract, or in the case of a contract made by the District of Columbia to the Commissioners thereof, who shall have power to review the action imposing the penalty, and from such final order whereby a contractor or sub-

contractor may be aggrieved by the imposition of the penalty hereinbefore provided such contractor or subcontractor may appeal to the Court of Claims, which shall have jurisdiction to hear and decide the matter in like manner as in other cases before said court.

SEC. 2. That nothing in this act shall apply to contracts for transportation by land or water, or for the transmission of intelligence, or for such materials or articles as may usually be bought in open market, whether made to conform to particular specifications or not, or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not. The proper officer on behalf of the United States, any Territory, or the District of Columbia may waive the provisions and stipulations in this act during time of war or a time when war is imminent, or in any other case when in the opinion of the inspector or other officer in charge any great emergency exists. No penalties shall be imposed for any violation of such provision in such contract due to any emergency caused by fire, famine, or flood, by danger to life or to property, or by other extraordinary event or condition. Nothing in this act shall be construed to repeal or modify chapter three hundred and fifty-two of the laws of the Fifty-second Congress, approved August first, eighteen hundred and ninety-two.

WASHINGTON, D. C., *March 15, 1904.*

The committee met at 10.30 o'clock a. m.

Present: Senators McComas (chairman), Dolliver, Burnham, Gibson, Newlands, and Stone.

The CHAIRMAN. The committee will now proceed with the arguments on Senate bill 489. Properly, the persons present who favor this bill are entitled to be first heard if they so desire. Do you gentlemen who favor this bill desire to be heard now?

Mr. FURUSETH. No; we would like to be heard at the close. We may want to answer some of the statements made by the gentlemen who are opposing the bill. We rely now upon the printed arguments made before this committee upon the opening hearing upon this bill in the last Congress.

The CHAIRMAN. Those gentlemen who are opposed to this bill will therefore proceed. The Chair can not tell whom you represent. We would like to know how many are present who desire to be heard.

Mr. DAVENPORT. I desire to be heard.

Mr. BEEK. I desire to be heard, and Mr. Crosby, of St. Paul, also desires to be heard.

The CHAIRMAN. We will first hear Mr. Davenport. Mr. Davenport, how much time do you desire?

Mr. DAVENPORT. I would like to have about three-quarters of an hour or an hour.

The CHAIRMAN. Mr. Beek, how much time do you desire to occupy?

Mr. BEEK. Probably not more than fifteen minutes.

Mr. CROSBY. I think fifteen minutes will be sufficient time for me.

The CHAIRMAN. If it is agreeable to the committee, I suggest we give Mr. Davenport forty minutes. That is nearly as much time as he asks, and we can then divide the remaining time, before the Senate meets, between the other two gentlemen present.

ARGUMENT OF DANIEL DAVENPORT, OF BRIDGEPORT, CONN.

The CHAIRMAN. Mr. Davenport, whom do you represent?

Mr. DAVENPORT. In the first place, I represent the American Antiboycott Association.

The CHAIRMAN. You appear in opposition to the bill?

Mr. DAVENPORT. Yes. I may explain that the Antiboycott Association is an organization of manufacturers, formed for the purpose of aiding in the enforcement of the laws, particularly of the law against boycotting, using that term in its comprehensive sense of boycotting men and the business of men and their products.

That organization was formed because of the helplessness of the individual to resist attacks against his business by reason of the methods of the American Federation of Labor. You know that, according to the laws of the United States and of the District of Columbia, boycotting is a criminal offense, and yet the American Federation of Labor is an organization formed for the purpose, among other things, of boycotting. This was an initial movement for enforcing the law, which has been since developed into rather an extensive organization for that purpose; but on account of the liability of the members to be boycotted it was decided, when the organization started, that the membership should be kept private, although the existence of the organization would be known.

Further than that, gentlemen, I am here at the request of what is called the Citizens' Industrial Alliance of the United States, an organization which embraces the various employers' associations throughout the country, and various citizens' alliances. I was in Indianapolis on the 22d of February, at the request of Mr. Parry, to address the annual convention of that association; and in consequence of what was done there at that time a resolution was passed, which I think has been forwarded to you, and I was specially requested, in their behalf, to state to you orally their position on this bill.

I further represent the National Builders Employers' Association of the United States, an organization of building employers' associations throughout the country, some sixty-eight in number, and existing in some eighteen States.

I further represent the National Marble Dealers' Association.

I take it that the bill before the committee is the same bill which was reported by this committee at a previous Congress.

The CHAIRMAN. It is the same bill.

Mr. DAVENPORT. What I have to say will be directed to the provisions of that bill.

The CHAIRMAN. The Senate bill is identically the same bill which was reported by me in behalf of the Senate Committee on Education and Labor in the last Congress. It is also the same bill, as I understand it, that has been introduced and is now being considered before the House Committee on Labor.

Mr. DAVENPORT. So I understand. There are many features of this bill about which I desire to say something to you, as lawyers and as Senators. But before I go into that discussion I want to talk to you a little, generally, about the principles involved in the whole matter.

The reason why the American Antiboycott Association is so much opposed to this bill is because its members and others are exposed to

being boycotted by the American people through the United States Government. Every concern in this country that does not see fit to run its business in all respects covered by this bill, according to the requirements of this bill, is deprived of the opportunity to compete for the business of the Government, and they decidedly object to having a law placed upon the statute books which will have that result.

You all know that in 1892 Congress enacted a most extraordinary law, which made it a criminal offense for any contractor or any subcontractor doing work upon public works to employ any person more than eight hours a day; and if the contractor intentionally violated the provisions of that law he was liable to a very savage penalty of, possibly, $1,000 fine and, I think, six months' imprisonment, or both, at the discretion of the judge before whom he was tried. The same was true of the subcontractor. This bill goes further. It proposes to make the contractor liable for the violation of it and subject to the same penalties, and in addition it makes the contractor liable to a fine and a forfeiture of $5 a day for every man he permits to work more than eight hours a day whether he is responsible for it or whether the subcontractor is responsible for it, and, as I interpret the bill, whether they are intentionally guilty of the offense or not. So that, in effect, it makes the contractor a guarantor for the performance, on the part of the subcontractor, of the requirements of the law that no man shall be employed more than eight hours a day, in any one calendar day, upon Government work.

You must see, gentlemen, that this is piling on punishment with a vengeance. But the bill goes still further. The existing law has been heretofore construed as relating only to what is properly public works. But this bill reaches out and makes the contractor and subcontractor liable in a similar way for any class of work falling within its provisions, in which the man may be permitted to work more than eight hours a day. Of course it must have occurred to the honorable chairman of this committee in making this report, and to the members of this committee that this bill abandons the principle underlying the bill of which it is an amendment. This bill does not undertake to prevent a contractor from employing men to work more than eight hours a day. It is confined to Government work. A contractor can permit his employees to work eight hours a day upon Government work and then he can take him off of the Government work and put him upon other work.

I say that the theory of the original bill was intended, for reasons of some kind—and I assume it was because of the well-being of the laborer—the workingman should not be permitted to work more than eight hours a day. But that is taken out of this bill as it stands. It must stand therefore upon the principle that the United States Government does not desire to have anybody work more than eight hours a day upon any work done for it. Whatever the effect that may have upon the welfare of the Government and its business, and whether it makes dearer or cheaper the goods which it buys, is no longer a consideration. The consideration is that, for some reason or other, the employees should not be permitted to work more than eight hours a day upon Government work, and that, so far as the Government is concerned and so far as the example goes, it is willing to sacrifice all other considerations, provided that consideration is observed.

I put it to you, gentlemen, as citizens and as officers of the Gov-

ernment, as being interested in the welfare of the Government, where is this thing expected to stop if you start upon that line of action? We know that the advocates of this matter contend that the Government is already committed to that policy by the act of 1892 and that logically and necessarily this further step should be taken, and that because this step should be taken of course all other steps along that line should be taken also. I see no limit to the action of the Federal Government in this matter short of the utmost exercise of the power of the Government in that direction. There can be no stopping place short of that point.

Now let me read to you gentlemen the programme that is laid down by the advocates of this sort of legislation. I read to you the programme which was adopted by the Boston Eight-Hour League, a very famous organization, small in numbers but most fruitful in its results; and this particular bill is but a very small part of that programme. It states:

"*Resolved*, That poverty is the great fact with which the labor movement deals.

"That cooperation in labor is the final result to be obtained.

"That a reduction in the hours of labor is the first step in labor reform, and that the emancipation of labor from the slavery and ignorance of poverty solves all the problems that now disturb and perplex mankind.

"*Resolved*, That we demand legislation on the hours of labor, as follows:

"1. An amendment of the patent laws of the United States by which an exclusive right to make or sell shall be forfeited when persons are employed in manufacturing an article patented more than eight hours a day.

"2. An amendment to the acts of incorporation of cities and towns, requiring them to adopt the eight-hour rule in the employment of all mechanics and day laborers, and the same hours to apply to the same class of work for the State, whether directly or indirectly, through persons, firms, or corporations contracting with the State.

"3. Manufacturing corporations to adopt the eight-hour system or surrender their charters.

"4. All persons under 21 years of age to be employed not more than eight hours a day."

I say that if this bill is adopted, upon the theory that it is the duty of the United States Government to throw its example, its influence, and its power in support of this proposition and this programme, there is no point at which it can stop short of that which is outlined in the programme. That programme was drawn up by Ira Steward, who was the great apostle of the eight-hour movement, by George E. MacNeil, of Boston, and has, of course, been supported by Prof. George Gunton.

I ask this committee whether it is prepared to embark this Government upon a course like that, or whether the declivity down which it is inevitably to go is not of such a character that it will result not only in the great disturbance of all existing business conditions in this country, but will inevitably commit this Government to a socialistic policy the end of which no man can foresee. You know the maxim in law: Resist the beginnings. Although you may fancy that by reason of the excisions and eliminations you have made in this measure it can

affect but very few interests at present, yet necessarily if you pass this bill the next step will be a demand for the rest of this programme, and you can not resist it.

If you can say here that no longer shall men be permitted to compete in order to furnish the best goods for the cheapest price to the Government, because of the fact that employers must not have their men work more than eight hours a day, you can not refuse the further demands for such legislation, and must say to anyone who operates under a mere license or privilege from the Government, as a patentee must, that he shall only take his permission upon the same condition. And in like manner all corporations that you organize, which the Federal Government organizes, accepting grants and franchises from it, must accept them upon the same condition.

The CHAIRMAN. Do you think that any prohibitive limitation upon the hours of labor in purely private employment would be constitutional?

Mr. DAVENPORT. Mr. Chairman, I will have something to say upon that subject later on.

The CHAIRMAN. Would you say it now?

Mr. DAVENPORT. I prefer to reserve what I have to say upon that point until I finish the line of thought I am now on.

The CHAIRMAN. Your illustration indicated that proposition.

Mr. DAVENPORT. I will say this in reply at present: That if the United States can exact a condition in its contracts which requires these contractors to work only eight hours a day, it follows, necessarily, that the Government can say to its patentees: If you desire an exclusive privilege of making and vending an article, you must not have men work upon it more than eight hours a day.

In like manner, when you come to this vast field that is opening up in this country in the matter of interstate commerce and in the legislation of Congress with reference to it, I can not see what you can say in reply to these gentlemen, when they come here and demand that no man shall work in those lines more than eight hours a day except: We will not permit that the employees of railroads and other concerns engaged in interstate trade shall work more than eight hours a day. Of course, in a certain sense, almost all manufacturers are to-day engaged in interstate trade in one form or another. How can you reply to the eight-hour advocates? We will not grant it. They will say, Why did you do it in the case of this bill? Why, because the great principle that no man should be permitted to work more than eight hours a day is a great moral principle, a great political principle, and a great social principle; and when they ask you to do these things how can you and how can your successors in the ages to come refuse them?

The CHAIRMAN. I am quite sure the committee do not desire to suggest to you the line of your argument, but I apprehend that this is a little far away from the present discussion. You are discussing hypothetical bills to come before future committees and future Congresses. If you would devote more of your time to the bill which is now before this committee, I would be particularly glad, and I apprehend the committee would be.

Mr. DAVENPORT. What I am saying is that in the granting of this petition and the enacting of this law you necessarily and inevitably

make it impossible for consistent men to decline these things, and, therefore, I urge it upon every man here and upon every member of this committee that they should not pass this bill for that reason.

The CHAIRMAN. That is because of an apprehension as to bills that may come up hereafter.

Mr. DAVENPORT. The certainty, the necessary certainty of it, because I have read to you their programme. I am not speaking to gentlemen who are inexperienced in regard to the purposes and claims of the gentlemen on the other side. I say that the committee should not adopt and pass this bill unless they desire that result, and unless they think such a result as that would be advantageous to the interests of this country.

Senator NEWLANDS. Do you think we ought to regard with apprehension any such condition of the law as would result in the limitation of the hours of labor of men employed in interstate commerce to only eight hours a day? Interstate commerce is a business that the Government can undertake itself or can entrust to others under governmental regulation. If the Government owned these railroads it would not exact from any employee more than eight hours a day. It exacts to-day from its employees in Washington only seven and a half hours a day, and from its postal clerks not more than an average of forty-eight hours a week. Now, if the Government, in the conduct of interstate commerce through Government ownership, would not expect its employees to work on an average more than eight hours a day, why should we regard with apprehension such a regulation and control of interstate commerce conducted by private, or rather quasi-public, corporations as to require a limitation of the hours of labor of railroad employees to only eight hours.

Mr. DAVENPORT. The honorable Senator recognizes by his question the inevitable result of which I speak. It will be something demanded, and the Government, if they take charge of it, can do it and will be forced to do it. I admit, in reply to the gentleman, that it will be desired of the Government to do it if this measure is adopted, and it can not be refused. And therefore I say, if that is the prospect before the people of this country by reason of the action of the Federal Government on this bill, this committee must consider, in considering this bill, whether measures of that character are safe, judicious, and desirable, for they will surely follow.

Passing that subject, I desire to call the attention of the committee to the general principle involved in legislation of this character. It is proposed to say to the working people of this country: You shall not work more than eight hours a day. That is what you say in this bill as nearly as you can, and because you can not say it directly you attempt to do it indirectly by imposing a burden upon the employer who shall permit such a thing as that to be done.

The CHAIRMAN. Do you understand this bill to prohibit a person, exercising his individual liberty and in his personal conduct, from working twenty-four hours a day out of the twenty-four hours, if he wants to do so, instead of being simply a restriction upon any man who makes a contract with the United States, that he shall not be required or permitted to exceed eight hours' labor upon Government work? Do you think it would be constitutional if I should be told, by law, that I could not work twenty-four hours' out of twenty-four in

my own household, or in connection with my personal affairs, in purely private avocations? Do you think the Government could say to me that I could not work more than eight hours a day in any employment?

Mr. DAVENPORT. You are now touching upon the question of the constitutionality of the law. We will consider that when we come to that point. But here is the point I am making: The object sought to be accomplished by this bill is that no man shall work more than eight hours a day, because you say to the contractor, if you permit men to work more than eight hours a day, although it may be but a few minutes more than eight hours a day, you shall pay a fine or a forfeiture to the Government of $5 for each man so employed. Of course the gentlemen who drafted this bill and who have its provisions in mind recognized the fact that there was a very serious difficulty in the way of accomplishing this thing directly. It is because of the constitutional difficulty of doing it directly that they have sought to accomplish it by indirection, by putting into the bill this provision which makes a man guarantee not only that he will not permit anybody to work on Government work more than eight hours a day, but that his subcontractors shall not permit anybody to work more than eight hours a day. The object is to deprive the working man of the opportunity to work more than eight hours a day, no matter how much he may desire to so, no matter how much his employer may desire to have him do so, and no matter how harmless the occupation may be. That is the purpose and the effect of this bill.

Now, gentlemen, I want to direct your attention to the fact that that is a very serious invasion of the liberty of contracts between the employer and his employee. So long as a man has his faculties and has imposed upon him by his Creator the necessity for work, and is surrounded by those influences which prompt him to exert his faculties for the benefit of himself and family, the privilege of a man to work is a valuable privilege. It is, indeed, the very essence of liberty; it is, indeed, the foundation of our whole social system as it exists to-day. This bill seeks to destroy that liberty. I have had repeated occasion hitherto to say that so far as I have been able in my extensive communication and acquaintance with the workingman of this country, upon putting the question to him directly, "Would you be in favor of a law which would deprive a man of the privilege of working more than eight hours a day, if it did not hurt him and if he wanted to work?" never once, except possibly from some enthusiastic labor leader, have I found a person who would say that he would be in favor of it, although, as I say, I have had abundant opportunity, in ways not necessary to detail before you, of asking that question and of eliciting an opinion.

Passing the question of its being an attack upon the liberty of the individual, and a most unfortunate exercise of the power of the United States Government, I want to direct your attention more particularly to the precise provisions of the bill which you have before you, and to ask you how you can sustain such a bill upon the principles of justice, fairness, and equity, the very principles which you have yourselves recognized in the report which you have prepared. I want to ask you how you can expect anybody to be able to live and do business under its provisions.

Let me say further, gentlemen, that upon looking it over and considering it in all its aspects, it seems to me that the bill can not be

amended in such a way as to overcome those objections as a practical proposition. When the bill first came before this committee it contained this provision: That if any contractor, his employees or agents, or any subcontractor, his employees or agents, did this thing, the contractor was to be held responsible for it. After considering that measure the honorable Senators observed the difficulty in relation to it. They said: According to the terms of this bill, if an agent or employee does this thing without the consent of the employer and without his knowledge or approval in one form or another, thereby ratifying it, it would be a crying injustice and would be of doubtful constitutionality. It is so unjust and takes away so much of the individual right of the party that there is a very serious question as to its validity. Therefore this committee struck out that provision, so that the bill reads: The contractor or subcontractor—with the idea that it must be the act of the contractor or of the subcontractor.

Did it not occur to the honorable chairman when he drafted the report, that in that statement he had himself condemned the bill as he had himself amended it, for he recognized the horrible injustice of saying to a man: You shall be responsible for the acts of your agents and your employees if they disobey you, although you have full control over them and can instantly discharge them, yet at the same time the chairman turns around and says that the contractor shall be responsible for the acts of his subcontractor, when, according to every familiar principle of law he has no control whatever over his subcontractor.

The CHAIRMAN. Has it not occurred to you that the distinction between holding a man liable upon a stipulation in an express contract, and holding him liable for the acts of a class of people who have only an implied relation to his express contract, as an ordinary employee or laborer, is quite an important distinction?

Mr. DAVENPORT. The honarable Senator must recognize that the attempted distinction is a matter foreign to——

The CHAIRMAN. I think it is quite relevant.

Mr. DAVENPORT. If it is unjust to require the contractor to be responsible for the acts of his agents and employees, done without his consent, although he can at once discharge them, is it not more unjust to require him to stipulate in the contract that he will guarantee that a subcontractor will not do this thing, and that he will be responsible if he does, when by law he had no control over him. It seems to me that the claimed distinction is ineffectual.

But let us go a little further with this subject. What do you mean by the word "permit?" Does it mean that he shall not be liable unless he intentionally violates it or does it mean that he undertakes to see that it shall not be done? Of course, being a contract, he can stipulate in it one way or the other. Does the honorable Senator or any other member of this committee think that the meaning of this bill is that he shall agree that it shall not be done, or do they think it means that he shall not intentionally permit it to be done?

I take it that when this matter shall have been finally passed upon by the Supreme Court of the United States, the only tribunal that can pass upon it, the Court will say that this is such an outrageous invasion, such a socialistic invasion of the rights of the individual, that it must mean that he intentionally permits this thing to be done. If that is true, what becomes of the change which has been made by

striking out the words "agents and employees?" I call your attention to the fact that this is a penal statute and provides for a forfeiture by way of punishment.

Now, suppose the contractor to be a corporation, and it passes a resolution, by a vote of its board of directors, to the effect that none of its employees, agents, or subcontractors should do any of these things covered by this bill? Then the contractor would be excused from liability under it; and in that connection I invite your attention to the case of Railway Company *v.* Prentice, in 147 United States. That case involves the question as to the liability of a corporation for punitive damages, or smart money, as we call it, for the willful or gross negligence of its employees. The Supreme Court said that, according to the fundamental principles of justice, and according to the established principles of law in almost every jurisdiction, unless the principal had authorized the gross negligence, or, you may say, the willful misconduct, it could not be held liable for punitive damages. That is the essence of the decision. In my State, in Connecticut, I had a case involving that proposition, and the supreme court of the State said that was correct.

If the striking out of the words "agents and employees" is to accomplish anything in avoiding the injustice so clearly seen by the committee, I submit to you that the purpose and effect of the bill will be defeated, at least so far as corporations are concerned as contractors and subcontractors, provided they do that of which I have spoken.

I will now leave that subject and pass to the next point I have in mind. The bill says "shall not work more than eight hours a day in any one calendar day." What does that mean? Does it mean from the time the workman enters the factory and goes to work until he quits work, or does it mean the time that he is actually at work? Take, for instance, the Homestead Steel Works. Although they work on twelve-hour shifts, yet the workmen, after they come in, work a part of the time and are idle a part of the time, so that during the period of twelve hours the workman actually works only nine hours and a half.

Does this bill mean that the workman is to work from the time he goes into the shop or into the factory until the time he leaves only eight hours a day; or does it mean that he is to be actually at work only eight hours a day? The distinction is very important and the results are vast, because it is known to you gentlemen that if you adopt the first construction and say that the provision of the bill means that it shall be eight hours of the day from the time he goes to work until he quits, where the men are working as they are in many establishments in that intermittent way, the actual hours of work would be cut down to perhaps five or possibly six hours, and his earning power, of course, would be based upon that time. If, on the other hand, that is an impractical thing, and the provision of the bill means that eight hours is the actual time he is at work, and the time he is reading the newspaper or waiting for another heat, as has been described before the other committee, is not included in the eight hours, then you are driven to this result: That in order to keep track of the man's time it would require an inspector for every man.

I submit to the committee that the true meaning of the words "eight hours in any one calendar day" is so obscure and so susceptible of

difficulty in accurate construction that they should not be embraced in any legislative act, and the bill should not be passed on that account.

Now, let us come to another aspect of this case, which is upon the mind of the honorable chairman of the committee, and that is to the question as to how far the Government of the United States can go constitutionally in dealing with these matters. In the first place, let me direct your attention to the unfortunate, to say the least, and impossible predicament into which you will put a contractor with the Government.

Assuming, for the sake of the argument, that the Government has the power to put a condition of this character into a contract, that the contractor shall stipulate and be responsible for the acts done in violation of that stipulation, and assuming, for the sake of the argument, that it is constitutional, how is he going to protect himself from the misconduct of his subcontractor? You will observe that this bill does not relate to the contract between the contractor and the subcontractor. It is confined to the contract between the Government and the contractor. To protect himself the contractor must either put a stipulation in his contract with the subcontractor that he shall not be permitted to do this and rely upon his contract, or he must get a bond from the subcontractor to that effect. He must put his subcontractor under a contract obligation to him not to do this thing.

We will suppose that the Cramps have a contract to build a battle ship. They, of course, can not do all the work themselves and must let out subcontracts. We will suppose that they make a subcontract with the Bethlehem Iron Company for armor plate. The representative of the Government at the Bethlehem works reports to the proper officer of the Government——

The CHAIRMAN. Mr. Davenport, your time is up.

Mr. BEEK. Mr. Chairman, I would like to say that both Mr. Crosby and myself would prefer to be heard to-morrow if there is any way it can be arranged. We have just arrived after a long journey, and I, personally, am suffering with a severe cold. An additional reason is that we would prefer not to proceed because Senator Clapp, our own Senator, is not present.

Senator STONE. I dislike to interrupt the gentleman addressing the committee and break in upon his line of thought, but I have not attended the committee meetings lately on account of sickness, and am consequently not well informed with regard to the order of these proceedings. I have received, within the last day or two, telegrams from a half dozen or more people in St. Joseph and Kansas City, prominent business men there, requesting me to ask this committee to give them an opportunity to be heard on this subject of the eight-hour bill and the anti-injunction bill on the 23d of this month.

The CHAIRMAN. There is a hearing in the House committee on what is known as the anti-injunction bill.

Senator STONE. At what time is that hearing?

Mr. DAVENPORT. That is on the 22d and the 23d.

The CHAIRMAN. I would suggest to the committee that I think we had better proceed from day to day and perhaps sometimes sit during the sessions of the Senate. I have asked the permission of the Senate to sit during the sessions and to employ a stenographer, and that will be acted upon to-day. If it is the pleasure of the committee I would

suggest that we sit for several days from 10.30 until 12 o'clock, and, in an emergency, later on some days, until we have heard, within a reasonable limit, all of those who desire to be heard.

Senator NEWLANDS. It will be necessary for me to attend a meeting of the Committee on Public Lands to-morrow, but the stenographic report will be available, and I can read the arguments made in my absence.

Senator STONE. I have to be at the meeting of the Committee on Commerce on Thursday, but that does not matter. I think it would be all right to have this committee meet from day to day. I suppose the hearings will not run more than three or four days, which would carry it to about the 20th. What I would like to ask is whether if these gentlemen to whom I have referred come here from St. Joseph and Kansas City two or three days later and ask for a hearing, the committee would grant it.

The CHAIRMAN. That is the regular meeting day of our committee, and we will probably be able to hear them briefly at that time.

Mr. DAVENPORT. I was about to say that, so far as I am concerned, I will be here for several days, and I can give way to any gentleman who desires to be heard. I trust, however, the committee will give me an opportunity to lay before them my views on this subject.

Mr. MCCAMMON. With the permission of the committee and of Mr. Davenport, I would like to interrupt for a moment in order to say that I would like to have three or four minutes of the time of the committee before they adjourn to-day, for the purpose of making a motion.

The CHAIRMAN. To read a motion to the committee?

Mr. MCCAMMON. To read a motion or make a suggestion.

Senator NEWLANDS. Suppose we allow Mr. Davenport to proceed until 5 minutes to 12.

The CHAIRMAN. Proceed, Mr. Davenport.

Mr. DAVENPORT. When I was interrupted I was upon the subject of the situation that would arise when an inspector at the Bethlehem works reported to the Government official whose business it was to approve the payment of the money to the contractor, that at the Bethlehem works, say, 1,000 men had worked several days for a longer time than eight hours. Under the provisions of this bill the proper officer would, of course, withhold the money, and from that decision the contractor could appeal to the head of the Department. If the head of the Department decided against him he could appeal to the Court of Claims.

If the Court of Claims decided the matter against the contractor, the Treasury of the United States is barred and closed to the contractor. There is no possibility of getting the money out of the Treasury. The matter is settled, so far as he is concerned, under the provisions of his contract. Then the subcontractor goes to his contractor and says: I want the money which you have agreed to pay me under my subcontract. The contractor says: The Government has held that money up; you are reported to have worked your men more than eight hours a day and many thousands of dollars have been withheld from me. The subcontractor says to the contractor: That is not true; I did not work my men more than eight hours a day. He might also say: Why, you knew when you called upon me to do that particular work that it would be necessary for me, in order to complete it, to work my men more than eight hours a day, and consequently

you have waived the condition of the contract. Of course, that would at once bring the contractor and the subcontractor into collision. The subcontractor would bring suit against the contractor. If they were citizens of the same State he could bring the suit in the State court. If they were citizens of different States he could bring it in the United States circuit court where either the plaintiff or the defendant lived, according to the possibility of obtaining service.

I pass by the question whether a party could remove that case from the State court into the United States circuit court. Be that as it may, the question between the contractor and the subcontractor would have to be litigated in a State or Federal court before a jury. There the question would be: Did you violate this contract, or did you fail to perform your stipulations contained in the contract, or if you did fail, did the other party waive it? That question would have to be passed upon by a jury, under the Constitution of the United States. The fact that the officer of the United States Government had withheld the money from the contractor would be of no avail and of no consequence. The decision of that point by the Court of Claims would not at all affect the liability of the contractor to the subcontractor, even if he had stipulated in his contract that the subcontractor should not violate this provision of law, in the event that the subcontractor said, "Why, you have waived all these conditions." So that the necessary effect of this bill, as you have it drawn, is to expose the contractor not only to all of the unfortunate results to him of having his money held up by the Government, with a possibility that it will not only be delayed, but may be denied to him altogether, but you place him in a position where he is liable to be defeated in litigation with his subcontractor over the same point.

You understand, gentlemen, that the Court of Claims is not a constitutional court. It is an administrative device gotten up by the Government to decide upon claims against itself.

The CHAIRMAN. It is a statutory court.

Mr. DAVENPORT. It is a statutory court, but it is not a constitutional court, and there is nothing in this bill which requires a subcontractor to submit his cause to such a court, nor would it be of any avail if it did, as between him and the contractor.

Senator STONE. When you were interrupted you were about to illustrate your argument as to the effect of this bill on subcontractors by supposing the case of a battle ship that was to be constructed. You said that if the Cramps had a contract with the Government to construct a battle ship they would not be permitted under this bill to work their men more than eight hours a day, and you were about to say that if they had to make a contract with some other corporation—the Carnegies, for instance—to furnish armor plate the men there could not work more than eight hours a day. Do you mean to say, and is it your opinion, that under this bill the Cramps would be liable for work done by the Carnegie Company, or by the employees of the Carnegie Company, in making armor plate, if the men worked more than eight hours a day on that armor plate?

Mr. DAVENPORT. Certainly; that is the very purpose of the bill. It makes the contractor a guarantor that the subcontractor will not permit his men to work more than eight hours in any calendar day. That is the purpose of it and that is the effect of it.

The distinguished gentlemen who have undoubtedly devoted a great

deal of attention, and who have pondered over the different bearings of this matter and its different consequences, have come to the conclusion that that is as far as they can go. They can make the contractor responsible to the Government because, being a matter of contract, he can contract away anything he has a mind to. Assuming that to be the case, I illustrated it by the instance of the Cramps and the Bethlehem Company.

To be as pointed and concise as I can, and in order not to repeat and not to annoy you, I want to say to you that you put the contractor between the upper and the nether millstone and he can not escape from it. When he gets through with his difficulty with the Government his difficulties have just begun, because in all the hurry and confusion of the building of a vessel like a battle ship—and I use that merely as an illustration—the relations between him and his subcontractor are such that the subcontractor can very easily and very readily say: You waived that stipulation which you put into my contract. It will not help him as against the Government, because he is absolutely required by his contract to be responsible for it.

Is it desirable to do such a thing as that? It is an unavoidable condition and a most unfortunate one. But let me go a little further. There comes to the mind of every man who thinks about such a peculiar measure as this the question: Is what it attempts to do constitutional? Is the obligation which this condition imposes upon the contractor one that, under the Constitution of the United States, can lawfully and validly be imposed upon him? Of course we all know what the Supreme Court of the United States has decided in the recent Kansas case.

The CHAIRMAN. In the case which I have here, of Atkin *v.* The State of Kansas, I think it was decided to be absolutely constitutional.

Mr. DAVENPORT. I think the honorable Senator fails to discriminate. There is very much in the Kansas law which is not covered by the decision of the Supreme Court. You must remember that the decision was made by a divided court—6 to 3—and a change of two judges would change the result. You must remember that the precise question involved in that case is not such as would sustain the constitutionality of the whole of the Kansas law as it stands.

But let us come right down to this point. Is it so that the United States Government in the contract which it enters into with its contractors can insert any kind of a stipulation whatsoever? Of course we know there are certain things which would render a contract invalid if inserted therein by the Government of the United States. Suppose, for instance, there was a stipulation that the employees were to do something that was of a criminal character or something that was of an immoral character, would such a condition as that in the contract be a valid one?

The CHAIRMAN. In no contract in any English-speaking country.

Mr. DAVENPORT. Then we come to this question. Has the Supreme Court said that in a contract made by the Government with one of its contractors it can, by the insertion of a stipulation, only indirectly affecting the matter between it and its contractor, reach out beyond it into matters between him and other parties? I do not propose at this time, and I do not propose at all to discuss that matter, because very much abler men than I am will probably discuss it. But let me say to you that, from what experience I have had with courts, that the Kansas

case, in my opinion, has come very far from meeting some of the constitutional difficulties in this bill.

The CHAIRMAN. Mr. Davenport, your time is up. If you desire to submit any further considerations in regard to this matter in writing, I am sure the committee will be glad to authorize me to include it in the printed report.

Mr. DAVENPORT. Mr. Chairman, what I was about to say in conclusion is, that there is no one more concerned than you are in getting at the truth about this matter. Legislation of this character is bound to excite the most bitter opposition. It will involve the Government; it will involve the contractor; and it will involve the subcontractor in a great deal of litigation. When the American workingman knows that the Congress of the United States has passed a law which provides that when he is at work on Government work he can not work more than eight hours a day if he wants to, when the provisions of the constitution of the unions and their agreements with employers permit overtime—when he learns that the United States Congress has passed such a law as that, he will not thank you for it, to say the least.

Senator NEWLANDS. Do you wish any further time for your oral presentation of this matter? If you do I think it would be a great deal better to have the argument delivered consecutively rather than to have it broken up.

Mr. DAVENPORT. I do want to have an opportunity of talking orally to such distinguished, eminent, and able gentlemen as the chairman and members of this committee upon the provisions of this bill; but I would prefer to go on at some time when it is convenient for the committee and for the other gentlemen who desire to be heard.

Senator NEWLANDS. I think it would be better to let him go on consecutively. If he comes back here a week hence he will be very apt to go over the same ground he has already covered.

Mr. MCCAMMON. At this point I have a communication in the nature of a suggestion, which I would like to submit to the committee:

MARCH 14, 1904.

DEAR SIR: We respectfully request that the Senate Committee on Education and Labor report to the Senate a resolution calling upon the Secretary of Commerce and Labor to investigate and answer the following propositions, namely: How far the labor situation would be affected by the passage of the pending bill, S. 489; the necessity for the passage of the bill; the additional cost, if any, to the Government in the matter of its purchases and supplies if such a bill should become a law; to ascertain whether Government contractors in manufacturing lines especially affected by the bill would continue to contract with the Government if the bill becomes a law; to investigate and report more especially what effect a new system introduced in the industrial world would have at this time, particularly upon the proposition to prevent either employer to employ or employee to work longer than eight hours under any conditions except those of emergency, etc.; also to investigate and report how far Congress would be justified in confining the application of such a law to only a few industries, say the manufacture of steel and armor used in shipbuilding and by those engaged in the construction of ships; what effect, if any, would the adoption of the policy proposed have upon shipbuilding interests generally, and

whether or not this is a proper time to apply the proposed new system especially to the manufacturers of iron and steel and to shipbuilders; also why, if the bill is a proper and just one, it should not be applied to the manufacture of other articles and supplies for the Government; also to report as to the rate of wages and hours of labor prevailing in British and Irish shipyards, and whether there is any arbitrary restriction on the hours in which workmen can work.

Your attention is called to the authority and propriety for the adoption by the committee and the Senate of the proposed resolution. By the act of Congress of February 14, 1903, a new department was created, known as the Department of Commerce and Labor.

By section 3 it is provided that it shall be the province and duty of said Department, first, to promote and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, the labor interests, and the transportation facilities of the United States.

Section 4 transferred, among other bureaus, the Department of Labor to the new Department. It also provided that said Secretary should also have authority to call upon other departments of the Government for statistical data and results obtained by them.

Section 5 created the Bureau of Manufactures, whose province and duty, under the direction of the Secretary, is to foster, promote, and develop the various manufacturing industries of the United States.

Section 8 provides that the Secretary shall make an annual report in writing to Congress, and—

he shall also from time to time make such special investigations and reports as he may be required to do by the President or by either House of Congress, or which he himself may deem necessary and urgent.

It will be seen that this new Department was established for the purpose, among other things, of promoting both labor and manufacturing interests, and to investigate the same and make such reports on matters connected with these interests as it may be called upon to make by the President or either House of Congress.

By complying with our request the committee will be pursuing the method invariably adopted by the committees of both Houses of Congress, namely, to obtain reports from departments as to the effect of a bill upon governmental and private interests. Similar requests are made by other committees of both Houses of Congress to heads of departments, concerning the Army, Navy, Postal, and Indian service, rivers and harbors, etc. Before enacting tariff legislation schedules are prepared by experts in the Treasury Department and full reports are made by technical men. The far-reaching consequences and probable injury to the American manufacturing world by the enactment of the pending bill would warrant the adoption of similar care by your committee. In this connection we think it proper to state unequivocally, believing that our statement can not be successfully refuted, that the proposition making it unlawful to permit any laborer or mechanic employed upon work done for the United States to work more than eight hours in any one calendar day has not been investigated by any commission or department. On the other hand, taking into account the magnitude of the questions involved, the investigation by the committee has been wholly superficial.

Since preparing the above the Secretary of Commerce and Labor has delivered an address, on Saturday, March 12, 1904, in which he said, among other things:

The Department is empowered to acquire and diffuse among the people of the United States useful information on subjects connected with labor, in the most general and comprehensive sense of the word, especially regarding its relations to capital, such as the hours of labor and the earnings of laboring men and women; the means in general of promoting their material, social, intellectual, and moral condition; the elements of cost or approximate cost of products; the comparative cost of living; the articles controlled by trusts or other combinations of capital, business operations, or labor, and the effect such trusts or other combinations have on production and prices; the causes of and facts relating to all controversies and disputes between employers and employees.

Capitalists and wage receivers are to be treated on an equality, for in these matters relating to labor and capital and to their respective representatives, the depart ments must stand in the position of an educational office, collecting and publishing such information as will enable each party to understand more fully the prevailing conditions.

Considering that Congress has recently created a new Executive Department whose duties cover the purposes suggested by our request, it is respectfully urged, for the reasons given above, that it would seem to be the duty of the committee to recommend to the Senate the passage of the proposed resolution.

Yours, very truly, ——— ———.

The CHAIRMAN. The committee will give careful consideration to your suggestion.

Mr. MCCAMMON. In considering the day for the next meeting of this committee, I only wish to call your attention to the fact that the House Committee on Labor meets at half past 10 o'clock on Thursday for the further consideration of this bill.

The CHAIRMAN. I hope it may be the pleasure of the committee, and if there is no objection I will take it to be the will of the committee, to adjourn to meet at 10.30 o'clock to-morrow morning. I think we should be continuous in our sessions here in the consideration of this matter.

Mr. DAVENPORT. Is it desired that I should proceed with my argument to-morrow?

The CHAIRMAN. No; we will hear these other gentlemen to-morrow, and later will try and give you an opportunity to be heard.

Mr. DAVENPORT. That will accommodate me, because I want to be before the Committee on Labor of the House on the national arbitration bill to-morrow.

The committee (at 12 o'clock and 10 minutes p. m.) adjourned to meet Wednesday, March 16, 1904, at 10.30 o'clock a. m.

WASHINGTON, D. C., *March 16, 1904.*

The committee met at 10.30 o'clock a. m.

Present: Senators McComas (chairman), Newlands, and Stone.

The CHAIRMAN. Gentlemen, the committee is ready to proceed.

ARGUMENT OF OLIVER CROSBY, PRESIDENT AND ENGINEER OF THE AMERICAN HOIST AND DERRICK COMPANY, ST. PAUL, MINN.

The CHAIRMAN. Mr. Crosby, will you state your name and whom you represent?

Mr. CROSBY. My name is Oliver Crosby. I am the president and engineer of the American Hoist and Derrick Company, of St. Paul,

Minn. I appear here in behalf of the Commercial Club, of St. Paul. I represent also the Foundrymen's Association of the twin cities of St. Paul and Minneapolis and the Association of Machinists. In this printed report there appears a copy of a communication sent by the Commercial Club of St. Paul.

The CHAIRMAN. On what page of the testimony does the communication appear?

Mr. CROSBY. It appears on page 414. I have examined this volume with considerable care and have spent several hours in its perusal. Out of the 440 pages I find that 264 pages are almost entirely devoted to the remarks and reports made by Mr. Gompers and Mr. O'Connell. The convincing element of about one-half of this book is this: That a workday of less than ten hours has been established in a large number of factories throughout the country, and that the tendency is for a shorter working period. A great number of reports are given here showing a change from ten hours to nine hours. It was not at all necessary for me to go through this amount of literature to learn that there is a constant tendency toward a shorter period for the working hours of mechanics.

I believe that all the manufacturers, certainly all with whom I am acquainted in the Northwest, and in the Twin Cities of the Northwest, will, without exception, admit and agree that a shorter working period is in process of establishment. The statements here are certainly in line with the existing evolution which is now taking place in working hours. The manufacturers do not regard this change in the number of working hours with any fear or apprehension. We realize that is one of the things that has been and is and will continue to transpire. In our short remembrance, during a period of say thirty years, we have seen the laboring hours per week decrease. In the New England factories the bells, in 1870–1875, used to ring at half past 6 o'clock in the morning. The operatives went to work at that time and worked until half past 6 at night, with an intermission of three-quarters of an hour, making eleven and one-quarter hours the working-day of those operatives. I believe that is a fair illustration of the New England factories at that time. That has been changed, and their working week now will, I think, pretty generally average about fifty-eight hours. In a number of cases that I know of the operators have asked for a longer working-day in order that they might have Saturday afternoon off.

This brings us to the point in the discussion as to what the laboring people want. Do they want a shorter day, or do they want a shorter week, or do they want a holiday? I have only to read to you Mr. O'Connell's statement in order to show you how he regards this question as to the length of the working period. On page 220 of this report I find the following statement made by him:

> The justice of the position of the wageworkers as regards a reduction in the hours of labor is so apparent upon every hand that in many instances these large factories concede a reduction in the hours of labor to all their men without question.
>
> So that the reduction of hours of labor is not a new thing. It is something that has been going on from year to year, and from year to year, and will go on. As improved methods of production in the country grow and increase, so will the movement toward bringing about better conditions under which wageworkers are employed.

I have no difference of opinion from Mr. O'C
I believe he is absolutely right. But the point
If these conditions are going on, as he admits; if
going a change from a longer working week to
taking place in ordinary business sequence and
and in a slow and gradual way that does not up
this time, is it necessary for Congress to be petiti
Apparently it is for the purpose of hastening th
already in process. Mr. O'Connell himself admi
From his remarks that I have just read, there is
position in regard to the matter.

I submit to you gentlemen if a shorter work
naturally that it is not good business policy and is
ernment to pass a law compelling a certain porti
work a shorter period, or to work an eight-hou
hasten the movement. Is it not a safer propositi
their inevitable course and let these conclusion
logical and usual manner? I can see no reason
this measure on the manufacturers of the countr
do an act of your own accord, but it is quite a
Government to say that you must do it, and attac
fail to obey the law.

It will be said that this bill does not affect
that it is meant to cover only shipbuilders and l
the Government. I believe it affects us all. It
represent in St. Paul. We have been Governm
great many years.

The CHAIRMAN. What do you make?

Mr. CROSBY. We have made gun carriages for t
ment, we have made cranes for the Navy Depa
made a great many minor things for the fortifi
tracts are let in the usual way—by calling for bid
the successful bidder in a great many cases. I
tracts in all cases have been awarded to us on our
wish to be deprived of the opportunity of conti
should estimate that in our plant, perhaps, durin
10 per cent of our product has been supplied to t

Senator STONE. What is this plant of which yo

Mr. CROSBY. Our plant is the American Hoistin
pany, of St. Paul, Minn. In 1895 we began contr
ernment in a small way. Our first contract was
at Mare Island, Cal. We built a crane for tha
about $50,000. In 1897 the Ordnance Departi
mortar carriages, and we were awarded a contr
We were afterwards awarded a contract for 10 m
15 more.

Senator STONE. Is the concern you represent a

Mr. CROSBY. Yes, sir; I am the president ar
company.

Senator STONE. You are an employer of how m

Mr. CROSBY. Of about 500.

Senator STONE. What are the hours of work?

Mr. CROSBY. The hours of work of the major part of the men are ten hours a day for five days in the week and six hours on Saturday. In the foundry department the men work nine hours each day.

We had a contract for the Government at the Port Royal Navy-Yard amounting to about $50,000 for a 40-ton crane. We had a similar contract at the League Island Navy-Yard for a 40-ton crane. These cranes are used for handling ordnance and heavy material around their dry dock and in equipping their battle ships. At the present time we are under contract to furnish the Boston Navy-Yard a crane of this same capacity. This crane travels around the dry dock and will be used for battle-ship work.

The CHAIRMAN. Do you not think that your gun carriages are excepted by section 2 of this act?

Mr. CROSBY. The only exceptions, as I understand it, are things that are usually bought in the open market.

The CHAIRMAN. The act says:

> That nothing in this act shall apply to contracts * * * for such materials or articles as may usually be bought in the open market, whether made to conform to particular specifications or not, or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not.

Are not your gun carriages excepted by that language?

Mr. CROSBY. I think not; at least, with that law on the statute books, I would not feel safe in accepting that as an interpretation of the meaning of that provision. I see no difference between the contracts with us for gun carriages and the Government contracts for battle ships.

The CHAIRMAN. You say that you would not feel safe in accepting that interpretation of it. If this bill should become a law and the Government should so interpret it, and should not require you to make a contract under this law, but should hold that your gun carriages were exempt, would you not feel pretty safe?

Mr. CROSBY. Certainly, under those conditions; but then the law would have no effect.

The CHAIRMAN. Not on your gun carriages.

Mr. CROSBY. I have not the remotest idea that condition would exist. I believe the bill provides there shall be inserted in each contract certain provisions, and that the officers in charge of those contracts can not dodge putting the provisions in the contract. I firmly believe that our contracts and our bids will contemplate that, and it will be up to us then to decide whether we are in a position to bid or not. The practical dangers in a contract of that kind are many. You who are not familiar with the operations of a steel and iron plant perhaps can not fully appreciate the difficulties under which we work. Every contract with the Government provides that the work shall be done at a certain time, and that a penalty will be exacted for a failure to comply with that provision. At the time of building the mortar carriages for the Government a delay for a month, under a penalty of $25 a day, would have been quite a serious matter. It would not amount to much, perhaps, for one day, but if carried on for a month it amounts to a respectable sum. That is one of the serious objections to this bill, and that is one of the things we could not figure on. We would not know where we would stand in completing our work.

The present contract, under which we are working on the Boston crane, was let to us in December. Before putting in our bid on that work this bill was brought to our attention as a company, and as

directors we examined it very closely. It occurred to us that possibly this bill might affect the fulfilling of that contract.

The CHAIRMAN. Did you read the first line of this bill, "that every contract hereafter made"—that must mean every contract made after the enactment of this bill into law?

Mr. CROSBY. We all realized, after discussing the matter a few minutes, that this bill would probably not affect that contract, and for that reason we made the bid for the business and secured it. If this bill had been a law, I can tell you frankly, and without any question about it, our company would not have put in a bid for that crane. We could not afford to do it, and for this reason: We never have had a contract with the Government yet that did not have in it a clause providing for a penalty for delay. I do not know that a Government contract has ever been made without having that clause in it. The Boston crane specifications, which I have here, provide as follows:

12. *Damages for delay.*—In case the work is not completed within the time specified in paragraph 9, or the time allowed by the Chief of the Bureau of Yards and Docks, under paragraph 10 of this specification, it is distinctly understood and agreed that deductions at the rate of $15 per day shall be made from the contract price as liquidated damages and not as penalty for each and every calendar day after and exclusive of the date within which completion was required, up to and including the date of completion and acceptance of the work, said sum being specifically agreed upon in advance as the measure of damage to the United States by reason of delay in the completion of the work; and the contractor agrees and consents that the contract price, reduced by the aggregate of damages so deducted, shall be accepted in full satisfaction for all work done under the contract.

To fill a Government contract is a difficult and troublesome piece of work. I do not say that with any intention or desire of complaining, that what is called "red tape" is unnecessary, or that the exacting specifications on Government work are unnecessary. I believe it is necessary in carrying on such a tremendously large amount of work as the Government has to contract for. But in carrying out their specifications we have to supply ourselves with materials that will stand their tests and conform to their rules and regulations, and oftentimes have to wait for a report to be sent to headquarters here at Washington in order to obtain their ruling on the subject and receive their reply. That results in a great interruption to the work. The result is that we can not figure with any certainty as to the amount of delay that will be caused on this account. We know when we start that we have got to toe the mark and meet the specifications, but in all shop practice there are things that come up which we can not reasonably anticipate.

For instance, take the case of an important casting. It may be an almost perfect casting. It may be so near perfect that any practical man would say it was perfectly suitable for the purpose for which it was made; and yet the inspector has no authority to say, "You may use that casting." He will submit it to headquarters and get their advice. All of these things cause delay. As a rule, the last part of the contract is the anxious and critical part of it. Delays have happened in various ways, and it is up to us to finish the contract on a specified date or stand for the penalty. There never has been a case when I found myself in a pinch of this kind when our men were not willing, ready, and anxious to help me out in every way they could, to finish our contract on time. There have been a great many cases where we have been obliged to work our men ten, eleven, and twelve

hours a day for a short period, in order to meet our obligations. This bill would provide that every time we did that, if we are working 100 men extra, it would cost us $5 for each man, or $500 a day. For that reason we would not feel safe in putting in a bid for this sort of a contract, knowing that this provision hangs over our heads.

There is a danger of penalties accruing very much in excess of the profits. The passage of this bill, which, I believe, means the insertion in all of these contracts of that objectionable clause, would completely prevent us from bidding on work of that kind. I am as slow to give up that part of our business as any man should be. In the last eight or ten years we have probably had a million dollars worth of Government contracts. That million of dollars has very largely gone into the State of Minnesota, and has been paid out in wages to the workingman. In the years 1897, 1898, and 1899 the money that we were paid for contracts was a very great assistance, and gave employment to a great many men in Minnesota who otherwise would have been out of work. I believe that if a fair vote of the mechanics in our vicinity could be taken, and an expression of opinion could be had, the result would be against this bill, for they know that the meaning of this bill is that it would be impossible for us to enter into contracts with the Government under it as it is framed.

The difficulty in operating an iron and steel plant and of being compelled to stop when eight hours has expired is a serious matter. This matter has been gone into very fully in this report by Mr. Johnson, of the Bethlehem Steel Company. He has shown this committee the impossibility of making large steel forgings and castings, and yet be obliged to stop when the eight hours has expired. Anyone who is familiar with operations of that kind of a plant must know that it is impossible to change shifts and have one crew begin a heavy piece of work and another crew finish it. In our own plant this condition would arise. It did arise a hundred times in the operation of our foundry while we were building the mortar carriages, and it would certainly arise again. That work requires castings that took 25 tons of melted iron to pour them. We started as early in the day as possible. Our cores were taken from the ovens, where they were baked overnight, and placed in the molds.

Every foundryman knows that when these things are taken from a hot oven and placed in the molds they begin to draw moisture, and it is necessary that work should be continued as fast as possible. These things being put into position, the iron is melted. Melting 25 tons of iron is not a few minutes' work. Under ordinary circumstances it is a matter of two hours' work. Conditions will arise which make it impossible to tell exactly when you are going to get through, and the consequence is that at the last of the day, when, we will say, the eight hours has expired, the cupola may be in the act of pouring the molten metal into the ladle. The process is then in its critical condition. It would be suicide and would be an impossibility to stop then and there and put off a portion of the work until the next day.

The only thing that can be done and the only rational thing to do would be to go ahead and complete the work. Imagine yourselves with 100 foundrymen, at that time in the day, trying to complete a large casting which may be completed in half an hour. But if the eight hours has expired, and the inspector is on the ground, the only thing he can do is to report to the Department that this concern has,

on this particular day, worked their men more than eight hours, and a penalty of $500 will be charged up. If there is any way to get away from that argument, I would like to know what it is. I do not see any way out of that difficulty.

These are two important matters which concern our business, and they are of so much importance that we could not and would not undertake this work if restricted to a quitting time of exactly eight hours.

I do not wish to convey the idea that I am opposed to a shorter working day. In fact, I am in favor of it. I believe it is coming; and I think it should come. I think there is plenty of good machinery to produce what we need in this world without having our men work from daylight to dark. All of the manufacturers in the twin cities of St. Paul and Minneapolis are of that same opinion. To convince you that they are of that opinion, I will mention one step which they took two years ago, without any demand from a labor union. It was taken voluntarily on their part. The matter was brought up before the associations there and it was generally agreed that a shorter working-day was in sight, and there was no desire to oppose it. We changed our iron-working establishments, both in the foundry and machine shops, in those two cities, from a ten-hour day to ten hours five days in a week and six hours on Saturday. We are operating on that schedule at the present time. No reduction of wages was made on account of this change in the working hours. The men were paid the same weekly wages for the shorter as they were for the longer week.

I regret very much that our Senator from Minnesota could not be present to-day. He is a man who knows perfectly well the conditions under which we work in St. Paul, and has taken a great deal of interest in our plant.

The CHAIRMAN. He sent me a letter explaining that he could not be here to-day, and asking that you should be given every consideration. He usually attends the meetings of the committee.

Mr. CROSBY. Without occupying any more of your time, I want to submit these things for your consideration. I hate to be driven out of the business of contracting for Government work. I stand here as the representative of about 7,000 more people who do quite a similar contract business with the Government.

The CHAIRMAN. I will ask the stenographer to copy provisions 9, 10, and 11 of the contract you have referred to into the record. No. 9 relates to "Time of completion," No. 10 to "Extension of time," and No. 11 to "Continuance of work after time." I have no doubt that any Government officer in your plant, when he found that you could not complete a piece of work at a given time, would not hesitate to give you the extensions provided for in the stipulations I have mentioned.

Provisions 9, 10, and 11 of the specifications above referred to are as follows:

9. *Time of completion.*—The entire work shall be completed in every respect and particular within nine calendar months from the date of the contract.

10. *Extension of time.*—Extensions of time for the completion of the work may be allowed and made, in writing, by the Chief of the Bureau of Yards and Docks. Any and every extension of time must be specifically made, and shall not be implied from any cause under any circumstances.

11. *Continuance of work after time.*—It is mutually understood and agreed that in the event of the work not being completed within the time allowed by this contract, said work shall continue and be carried on according to all the provisions of said

contract, plans, and specifications, unless otherwise at any time directed by the party of the second part, in writing, and said contract shall be and remain in full force and effect during the continuance and until the completion of said work, unless sooner revoked or annulled according to its terms: *Provided*, That neither an extension of the time beyond the date fixed for the completion of said work nor the permitting or accepting of any part of the work after said date shall be deemed to be a waiver by the party of the second part of its right to annul or terminate said contract for abandonment or failure to complete within the time specified in paragraph 9, or to impose and deduct damages as hereinafter provided.

Senator STONE. I would like to inquire what you mean by saying you represent 7,000 people?

Mr. CROSBY. The word "represent" was ill chosen. I meant to convey the idea that there are something like 7,000 contractors and subcontractors like ourselves in the United States who would be affected by the operation of this bill. I do not mean that I stand here representing them.

Mr. HAYDEN. May I ask Mr. Crosby one question?

The CHAIRMAN. Yes; one question.

Mr. HAYDEN. I would like to ask you about your gun carriages. I think there is some misunderstanding about that. They are not the ordinary trucks or caissons for field artillery, are they?

Mr. CROSBY. No; they are for heavier ordnance; for coast defenses.

Mr. HAYDEN. Can you, in a few words, describe such a gun carriage? I do not think the committee understands what you mean.

Mr. CROSBY. The 12-inch mortar carriage is a type that has been adopted quite generally. I think that 12-inch carriages are now ordered entirely. These carriages consist of a large casting weighing about 10 tons, resting upon a concrete foundation. Upon this heavy ring rests another casting weighing about 15 tons. Between the two rings there are a series of rollers which allow the top carriage to revolve in a circle, and upon the top carriage is mounted a 12-inch mortar. The recoil is taken up by hydraulic cylinders and the carriage is returned to position by a lot of steel springs. A great many of these carriages have been made. I should say that the Government must have purchased three or four hundred of them. The Poole Company, of Philadelphia, have probably made more of them than anyone else.

Mr. BEEK. Mr. Crosby, are the carriages, such as you have described, ordinarily carried in the open market, or are they always made under specifications and to order?

Mr. CROSBY. They are always made under specifications, and under very rigid specifications, and two army officers were detailed to stay at our works all of the time this work was going on.

ARGUMENT OF WALLACE DOWNEY, PRESIDENT OF THE TOWNSEND-DOWNEY SHIPBUILDING COMPANY, OF NEW YORK.

The CHAIRMAN. Mr. Downey, what is your name?

Mr. DOWNEY. Wallace Downey. I am president of the Townsend-Downey Shipbuilding Company and president of the New York Metal Trades Association.

I am here representing the Metal Trades Association of New York. It is an association in which there are about 60 or 70 manufacturers. They are engaged in a great many different lines of manufacturing, all involving the employment of machinists, boiler makers, carpenters,

joiners, and members of the various trades; and they employ a great number of men.

We are very much interested in the bill before you, which if passed will establish by law an eight-hour day on all Government work. We believe that if it passes it will entail an eight-hour day in commercial work as well as Government work. We have discussed this matter very thoroughly, and have tried to look upon it from the standpoint of broad general good to the employer and workingman. We believe that our interests run together very closely, and that any legislation, or, in fact, any happening that affects the system of manufacturing in the country to a very small percentage either benefits or injures the manufacturer and the workingman; and it injures or benefits the manufacturer and the workingman in about the ratio that wages bear to profits.

Very often the result of a change is not directly noticeable; but if we go deep into the details of our business and make a thorough investigation we always arrive at about this digest, and find that if a gain has been made it has required the employment of more men, and if they are profitably employed the employer will make a profit, possibly from 10 to 20 or 25 per cent; and we find that the workingmen receive wages that are almost invariably 60 per cent of the increased transactions accruing from the benefit of the increased trade. Exactly the contrary is the case if anything happens that decreases the general trade of the country—the manufacturing and the selling. We conscientiously believe that if this bill is passed in this session of Congress within a very short time the effort to maintain our foreign trade would entail a terrific war between the employers and the workingmen in the country broadcast. The result of that might be the establishment of a commercial eight-hour day and the loss of foreign trade, or it might be that the employers could maintain the nine-hour or the ten-hour day. In any event a war between labor and capital to decide that question would cost this country hundreds of millions of dollars.

In weighing this question carefully I have tried to arrive at some digest that would seem to justify the arbitrary establishment by the Government of an eight-hour day. I can not, from any standpoint, see that it would be profitable. If we establish an eight-hour day without any great conflict between capital and labor we will certainly decrease the total manufacturing capacity of our country immensely and raise the cost to a point where foreign sales must decrease. If we do that the employer, the workingman, and the public have got to pay for it, although it is hard to say in just what proportion; but in the main I believe we will be safe in following out the proportion of from 10 to 25 per cent for the employer and from 50 to 80 per cent for the wage-earner. I think that would be a perfectly safe basis.

I want to impress upon you that we come here without prejudice, without ill feeling, and with no narrow-minded antagonism to any effort the working people of the country, through organization, are making or attempting to make to better their condition. The gentleman who just spoke says that in his part of the country, in the West, the employers are favorably considering a shorter day. I can conscientiously say for the employers I represent that there is no narrow or bitter feeling against a shorter day, if the workingmen and the employers can afford a shorter day and maintain a general condition of trade, which must be maintained to afford the workingman an

opportunity to earn his wages and the employer to earn his profit. In a finished digest of industry, the employer is a responsible agent in the commercial world, broadly speaking. The duty of the employer and his responsibility is to supply the capital, build the plant, secure the business, hire the men, supervise manufacture, sell products, and collect. He has to assume the responsibility and risk of the capital investment, and the risk of making a profit or not making it; but he has no option whatever as to whether he pays the wages. They must be paid or the plant must stop.

While the workingman may not be laboring under ideal conditions as yet, we believe that he is fairly safe in his situation, and that if he gets work he gets his pay. But it does not follow that because the manufacturer gets business that he gets his profits.

We hope that deep and serious thought and investigation will be given to this bill. It has been treated rather lightly, I fear; but it is of the most vital importance to this country, to the employer, and to the workman. The question involved, as I see it and as my colleagues see it, is, Can we afford an eight-hour day at this time? That is, can the employer and the workmen together afford an eight-hour day?

Looking broadly at the business situation and considering the foreign markets, you will see that we must secure the foreign trade; it must be secured to a large extent, in the interests of the workingman and of the employer alike. I understand that our foreign exports amounted to about two billions and a half of dollars last year. A part of that foreign export is always represented by specialties of some kind, which we would export under any conditions of hours or wages that might prevail in foreign countries, part of it possibly being goods they do not manufacture or produce at all, and other things being manufactured under our patents. But in the main that foreign commerce is the surplus of manufacturing done in this country, a surplus obtained through the manufacturers of the country having furnished magnificent plants, able to produce at the terrific pace that was demanded during the last three or four years by an almost abnormal demand.

That demand is rapidly growing less, and while I do not anticipate any calamitous condition in the near future, I do anticipate a settling back to a normal condition of affairs where the supply will be able to meet the demand and, I believe, will be far in excess of it. Then we must, logically, stop the production or we must export it. If we hope to export it, or attempt to export it, we must either be able to do it practically on a par with the foreign manufacturer's price or else we must expect to sink a lot of money. The American manufacturer is an enthusiast. He is brave, and he will go to any part of the world and stake his money to develop a business. He will probably be willing to loss a certain percentage each year for two, three, four, or five years; but there comes a time when he has got to sit down and reckon the cost and decide for himself whether the game is worth the powder.

To illustrate the possible and, I believe, the probable effect of this bill if passed, I will picture an export trade of two and a half billions as hanging on a peg, which at present is loaded to within 5 or 10 per cent of its holding capacity. Now, a workday one hour shorter at the same rate of wages would increase the manufacturing cost about 12½ per cent.

Gentlemen, picture to yourselves the addition of 12½ per cent to that

load. It must inevitably pull down the peg. If it does, who stands the loss? It would fall about in this proportion: Assuming that we lose one billion of foreign sales, at least 60 per cent, or six hundred millions, would be lost to wage-earners of this country; and assuming that the manufacturers would clear 10 per cent on that sale if made. If lost, they would lose ten millions Roughly, that is the ratio of the employers' and workmen's interest as to whether we retain what we have of export trade and develop it further.

The assumption that we can maintain all our export trade under any condition and against all comers is an error. A great percentage of that trade is, as I have remarked, composed of our surplus production, which is exported and sold at small profit or some loss simply because we must sell it or close our factories to an extent that will only produce what we require for home consumption.

Can the workman and employer of the United States afford, by arbitrary act of legislature based upon sentiment, to abandon export business that has taken generations of work and millions of money to develop? I do not believe we can.

Gentlemen, when I plead with you not to enact this arbitrary Government eight-hour day, entailing the commercial eight-hour day, I ask it in behalf of employers and employees alike. I believe conscientiously that I am asking you to safeguard the interest of the country at large.

I want to say that personally I favor the highest rates of wages for the workingman and the shortest working day compatible with successful and mutually profitable development and maintenance of manufacturing in the United States. I believe ultimately we will have a shorter workday, and I will be glad to welcome it when we can afford it. It has been coming through a course of evolution, and my firm conviction is that it should be left to evolution and should not be regulated by legislation. If the employers of the country should by some means establish a working day that was extraordinarily long, say from twelve to fifteen hours, as was the case in olden times, then legislate to stop that extreme. If, on the other hand, organized labor in this country should attempt the other extreme and demand a three-hour or a five-hour day, legislate to stop that. There must be some reasonable bound for the working day, and that reasonable bound must remain until the divine order that man shall "earn his bread by the sweat of his brow" is rescinded. So long as that order is in force some reason must be exercised in regulating the length of time that we must sweat, and the workingman is not doing all the sweating. I have been a workingman as well as an employer. While the brow of the workman sweats on the exterior, the brow of the employer is often sweating inside; and we have no odds to ask of each other in that regard.

Let me give you an illustration from recent experience as to how this eight-hour legislation would affect our foreign commerce if it should be enacted immediately or in the near future. In New York City to-day the municipality is advertising for five large ferryboats, to be operated on the Staten Island ferry. The cost of those ferryboats will aggregate about $2,000,000. They are to be paid for by funds supplied by the citizens of New York. There are three shipyards in New York which can build those boats. We have an eight-hour State labor law in New York, and that law applies to the contract and specifications for those boats—that is, it applies so far as the con-

tractors of New York State and city are concerned, but does not apply so far as the contractors of any other State or city are concerned.

We are to-day working about nine hours in New York, and other shipyards in the country are working nine and ten hours; and they are the shipyards that will be competitors with us for the building of those ferryboats. The peculiar situation is that our eight-hour State labor law will apply to the New York shipbuilders, and if they bid on those vessels they will be absolutely obliged to bid on an eight-hour-day basis of cost, while the contractor just across the river in Jersey, or in any other State of the Union, can come right into New York and bid on those boats, take the contract away and work nine, ten, or twelve hours a day, as he sees fit, which of course gives him an immense advantage—such an advantage, if the situation remains as it is, that the New York contractors will not waste lead pencils in figuring on the work. It will be simply useless, because they will be so handicapped and at such a disadvantage that they can not compete for the work.

The manufacturers of New York, in that situation, stand in relation to the other contractors in this country in the same position as the manufacturers generally in this country would stand to the manufacturers of the world, if we arbitrarily add 12½ per cent to the cost of manufacture by the passage of this bill. We add just that 12½ per cent to the advantage of our foreign competitors, and for that reason I am opposed to this legislation, believing that it will be a tremendous injury to the employer and to the workingmen of this country; and believing, logically, that to the extent we close the markets of the world through it, to that extent must it be an injury to the country generally.

Gentlemen, your time for adjournment is near and I will close, thanking you for your courteous attention. There is a great deal more I would like to say on this bill. I have dealt principally with the export trade, but there are two or three other branches that are vitally affected, as to which I would like to have an opportunity of saying a few words at another time.

Mr. BEEK. May I inquire if it is the purpose of the committee to sit to-morrow?

The CHAIRMAN. We will meet to-morrow at 10.30 o'clock.

The committee (at 12 o'clock and 10 minutes p. m.) adjourned to meet Thursday, March 17, 1904, at 10.30 o'clock a. m.

WASHINGTON, D. C., *March 17, 1904.*

The committee met at 10.30 o'clock a. m.

Present: Senators McComas (chairman), Penrose, Dolliver, Clapp, Burnham, and Gibson.

ARGUMENT OF WALLACE DOWNEY—Continued.

Mr. DOWNEY. Mr. Chairman, I am the president of the Townsend-Downey Shipbuilding Company, of New York, and president of the New York Metal Trades Association, an employers' association which includes 60 or 70 concerns in New York City. Those companies

employ anywhere from seven to ten thousand men, varying, of course, from time to time.

Most of the members of the New York Metal Trades Association are engaged in the manufacturing of goods that enter into the construction of merchant and Government vessels. A number of them, including our own plant, take contracts to build Government vessels. This bill would affect us all. We have a nine-hour day now, and if we were forced to go to an eight-hour day on all of our Government work, from our experience in manufacturing on practical lines, we know that it would be utterly impossible to conduct our business. It is going to be impossible for any manufacturing concern in this country to devise a plan in the conduct of their business that will permit knocking off a great part of their men at 4 o'clock, which would be the end of the eight-hour day if they go to work at 7 o'clock in the morning, and keeping another great mass of men working until 5 o'clock.

I think you can easily understand the feeling that would create among a large body of workmen. I have had experience in that line. We have an eight-hour State labor law in New York State, applying to all municipal and State contracts. If a New Yorker takes a contract to do any municipal or State work in New York he must abide by the eight-hour State law. That has entailed, in many cases, working an eight-hour day in the yard where we are also working a nine-hour day. We have seen the difficulty of that situation. Just two or three years ago the labor unions of New York decided to have an eight-hour day on all repair work in shipyards in New York. I have been for a number of years past carrying on the business of shipbuilding and ship repairing. The condition of an eight-hour repair day entails in my own yard the position where I work nine hours on new shipbuilding work and eight hours on repair work. So that I have had a long practical experience in attempting to work an eight-hour day and a nine-hour day in the same yard.

Senator CLAPP. You work an eight-hour day on repair work; did that come about by agreement?

Mr. DOWNEY. The labor unions forced it. I am speaking from experience with reference to my claim that an eight-hour day and a nine-hour day is logically impossible, and is not economical in any large business establishment. When I say that I do not speak from theory; I do not speak from any prejudice in favor of an extremely long day or an extremely short day. I speak from actual practice and experience, and my digest of it is that it is impossible. We have to consider the sentiments and feelings of the men. If you have got a thousand men working up to 4 o'clock and another thousand men whom you expect to work until 5 o'clock in the same day, the thousand men that are left in the yard have a feeling of resentment about it. They say: "Why can not we knock off work at 4 o'clock? What are we kept here for? Why does this unequal condition exist?" It would all, finally, result in this: That the manufacturing places must decide whether to work an eight-hour day or a nine-hour day. That would entail the concerns doing Government work alone under this bill if it became a law, and the merchant people going along at a nine-hour day. Of course that would throw upon the Government a very greatly increased cost for any work it might have done.

Yesterday I dealt with this bill more from the standpoint of the

country generally, and from the standpoint of our immense export trade during the past year, which amounted to about two and a half billions of dollars. I am more worried in regard to that than I am in regard to our own line of business, because I see in the destruction of that foreign export trade a gigantic loss to the working people of this country. If we eliminate from that export trade of two billions and a half all of the specialties manufactured in this country, and all things manufactured under patents, and the special goods that other countries must have from us at any price, we would still have millions upon millions of goods remaining that are manufactured in this country, representing the surplus of the mills, that are sold to the foreigner at cost or at a very small margin of profit, and in a great many cases at a loss, simply to dispose of them. Logically, if we add 12½ per cent cost to the manufacture of those goods, the foreigner has an advantage of us of 12½ per cent in selling to another foreigner. The American exporter must meet the price of the foreign manufacturer or he must cease to sell or he must lose a large sum of money. I do not believe that the manufacturers of this country will go on struggling with that foreign market. They have done it heroically in the past, at a cost of millions of dollars, and have secured a magnificent footing in the foreign markets of the world; but if you add 12½ per cent to the cost of producing these goods you will certainly kill a very large and, I believe, a majority of the export trade of this country.

For illustration, let us take a million dollars of goods sold by export. In a million dollars' worth of goods put on board a ship on the coast of the United States to go to a foreign market there is 80 per cent which represents labor, which has been paid to the workingmen of this country. Whether those goods go out of the country and are sold to a foreigner or not means $800,000 to the workingmen of this country. If the goods are manufactured, exported, and sold to the foreigner the wage-earners of this country will get $800,000 out of that $1,000,000 transaction. I include in that the wages earned from the time the soil is turned over to get the coal and from the time the tree is cut down in the woods to get the lumber. I have in mind the tremendous loss to the working people of this country in every million dollars' worth of foreign export trade that the eight-hour labor law would entail.

Realize the immensity of it. You will simply eliminate from your two billions and a half of export trade whatever portion you may decide would be exported at any rate; that is, the specialties and the commodities the foreigners would buy from us at any price, and get right back to the legitimate competitive business. If we put that at $2,000,000,000, and then you allow $800,000 worth of wages for every million dollars represented in the two billion, you will be appalled at the difference it is going to make to the workmen of this country whether we sell those goods or not. Certainly if we do not sell them we will not manufacture them. If we do not manufacture them we can not pay the workman his wages. It will drive us right back to the place where we have got to stop our mills from producing a surplus, and simply regulate our product by the demand in this country, where we get high prices. If we do that I contend that the laboring people will lose 80 per cent of it in wages and the employer will lose the 10 or 15 per cent profit that he makes; but the majority of loss will fall upon the workman inevitably. That is all I want to say about the export trade.

I want to refer to this further from our standpoint of Government shipbuilding and repair work. An eight-hour Government day will entail an eight-hour commercial day. I am perfectly satisfied of that, because, immediately, when you pass this law, the labor unions will go to work and force the rest of it. I do not say that with any bitter feeling; but that is the logical result. It is policy, and they will be right in attempting to do it. If the law is passed and an attempt is made to enforce an eight-hour day in this country, it will cause the greatest war between capital and labor this country has ever seen.

The CHAIRMAN. You have an eight-hour day in New York?

Mr. DOWNEY. Yes; on municipal work and State work.

The CHAIRMAN. And New York has a population of over five millions of people, has it not?

Mr. DOWNEY. Yes, sir.

The CHAIRMAN. Then you have had the eight-hour law in force for several years in one of the largest States of the Union?

Mr. DOWNEY. Yes; and that law has resulted in preventing any New York employer who has a nine-hour day in his plant from daring to bid on a New York City contract, because if he did it would entail an eight-hour day in his plant on that work, and would bring about disruption of his whole business. Rather than do that he lets the contract go. The last fire boat that was built——

The CHAIRMAN. You spoke yesterday about some barges or ferryboats that were to be built.

Mr. DOWNEY. I did not mention this specific case of the fire boat. That instance will illustrate the practical outcome of this measure. The last fire boat that was paid for by the citizens of New York, where there are three or four shipyards that could have built it to advantage; but it was built in a shipyard in Camden under a ten-hour day. Under our law I would have had to bid, if I had bid at all, on the eight-hour basis. But our Pennsylvania competitor bid for it and built it on a ten-hour basis, which led, logically, to a situation that was impossible to the local builders.

Now, the passage of this law will entail a commercial eight-hour day in the United States, and the result will be that just exactly the same condition will exist between the United States and the world at large as now exists between the New York manufacturer, who is required to bid on an eight-hour basis, and the outside manufacturer, who can bid on a nine or a ten hour basis. The United States bidder will simply not be in a position to compete with a foreign competitor on account of short hours. We have that experience in New York right now and have had it for years. That is the reason I am speaking so strongly on this subject. I realize what it means from practice and not from theory.

The CHAIRMAN. Do you know how many States have such a law besides New York?

Mr. DOWNEY. I do not.

The CHAIRMAN. You do not know that a great many States have the same provision with respect to State and municipal contracts?

Mr. DOWNEY. Then the State which has it is always at a disadvantage in competing for work to the extent that the hours of labor are shorter.

Senator DOLLIVER. How could a foreigner, under the provisions of this bill, compete in the bidding?

Mr. DOWNEY. I simply used New York State as an illustration. I

say that, as that State is to other States of the United States which have no limitation of hours so will the United States be to the world at large, if this bill is passed.

Mr. BEEK. You mean in our export trade?

Mr. DOWNEY. In our export trade. I merely used that as an illustration.

Senator DOLLIVER. But the United States, and by that I mean the Government, has no export trade.

Mr. DOWNEY. But we are looking at this from a thoroughly practical standpoint, and we say that if you make an eight-hour Government day it will entail an eight-hour commercial day, and that with an eight-hour commercial day we can not compete with foreign countries.

Senator CLAPP. You misunderstood the word used by Senator Dolliver when he said "the United States." He meant "the Government."

Mr. DOWNEY. I mean the country broadcast will be on the basis of an eight-hour day.

Senator DOLLIVER. You do not fear competition from outsiders on Government work?

Mr. DOWNEY. Certainly not. An eight-hour law was passed some years ago in the State of New York, and small contracts have been lost to New York City under that State law. But there has never been anything large enough to create a feeling among New York contractors that something must be done until lately, when, as I mentioned yesterday, the city of New York is about to spend in the neighborhood of $2,000,000 to build some ferryboats.

The CHAIRMAN. You stated that yesterday.

Mr. DOWNEY. I want to state to these Senators what the effect of our eight-hour bill is in New York, and what we are doing to remedy it. The eight-hour bill is in force; $2,000,000 of our money is going to pay for ferryboats; there are yards in the city which cost millions of dollars which can build those boats; the eight-hour law will prevent the New York contractor from bidding on them because the contractors in the outlying States can come in and bid on the basis of ten hours' work on those same boats. We were appalled at the situation of having our yards lying idle when they were equipped in splendid shape to do that work.

Senator DOLLIVER. Does not the New York law authorize the State to enter into a contract with any party who takes the work to do it upon an eight-hour day?

Mr. DOWNEY. But they can not enforce it.

Senator DOLLIVER. If they entered into a contract like that, it would improve the situation decidedly.

Mr. DOWNEY. We hoped that was so, but on the fire boat I have just mentioned they worked ten hours a day. Under the eight-hour law of New York State we lost the building of that boat. They got New York City money and built the boat. The shipbuilders, citizens of New York, could not bid on her, and the successful bidder paid no attention to the State law of New York. It was not enforced and could not be enforced.

Senator DOLLIVER. Was it inserted in the contract?

Mr. DOWNEY. Certainly it was. All city, municipal, and State contracts have that provision in the contract. But the New Yorker is helpless. He must obey the law, while the other contractors need not obey it after they get the contract.

We met and talked the situation over. We found that we were handicapped by from 12½ to 25 per cent in our labor proposition and that we were paying higher rates of wages for a shorter day; that we had to work on those boats on an eight-hour basis, while shops to the south and north of us were working on nine hours and ten hours. We asked ourselves: What will we do about it? I said: "Amend the law; that is the only thing that can be done." Several manufacturers said that would be an impossibility, but I said: "I do not believe it; I can not understand why the working people of New York City and New York State will not realize the fallacy of this thing, because it is fallacy." It was introduced in enthusiasm and passed in enthusiasm and on the basis of sentiment, just exactly as this bill is introduced and is being pushed on sentiment and absolutely against the practical requirements of the business of this country.

You forget the struggle the business man has got to enter into to acquire and develop a business. These people come here through enthusiasm and sentiment and introduce these bills that destroy and pull down the fabric people have been building up for centuries, because of sentiment. You want the labor vote, and you want this and you want that. But, gentlemen, there is something else in this country besides the labor vote. There is the ambition among employers of this country to develop a business and to afford a place for the labor voters to work. There is no antagonism between the employer and the laborer. There is no difference of interest between them. On that proposition we can not afford to cater, sentimentally, to the labor vote or to the employers' vote, when the employer and the laborer are undoubtedly going to pay for it and the foreigner is going to reap the benefit.

The laborer fought heroically a few years ago in New York State to have that law passed, just as he is fighting to have this law passed. But when it comes to a time that it is New York City and New York State against all other States competing for this $2,000,000 worth of business what is the laborer forced to do? He is struck in the head when I tell him that I can not bid for this work; that if I can not bid he can not work; that if he does not work he does not earn the million and a half of wages which will come out of these contracts. Then his brain opens to the situation, and he says: "Mr. Downey, I will join you in having it amended." And he is joining me to amend the law that he fought for, and thought he was doing himself a benefit, when what he was actually doing was to cut himself out of the whole proposition.

And, gentlemen, that is just exactly what he is doing here to-day if he attempts to force an eight-hour law on this country for Government work. That will force the manufacturers of the country, generally, to go to an eight-hour day, and then we must lose our foreign markets, as we must lose these New York contracts unless they amend the eight-hour law.

Mr. BEEK. Do you say that the laborers are joining you in your efforts to get that law amended?

Mr. DOWNEY. I talked with the president of the State Federation of Labor and he said, as has been suggested here, that we could put a clause in the contract that would regulate this situation, and it could be enforced outside of the State, and he believed that. He said: "I have been before the dock commissioners on that question and the

dock commissioner says that he has put a provision with reference to the eight-hour day into these contracts." This man is no ignorant laboring man. He is a very brilliant man. He sat down and talked with me and I listened patiently until he got through, and then I said: "Do you realize that you are looking on the bottom of this thing and not getting up to the top and looking down into the bottom?" I explained it to him and he said: "I am dumfounded; I have got to join you." I said: "We have fought each other, I as an employer and you as a labor delegate; but here is where we have got to hitch up horses; and there is no option about it. I can not bid and can not get the contract, and you can not do the work unless you get an amendment to that law." He said: "I will do my best to have the State Federation assist me in amending that law for the general good."

Senator DOLLIVER. To amend it in what way?

Mr. DOWNEY. So as not to apply to any municipal or State contract that can be done without the State. That was simply a condition to be added to the bill. There were certain exceptions in the law, as there are in this bill which you have under consideration. In the State law there are certain exceptions and we suggest an addition to the exceptions, that where the municipal or State work can be done without the State this law shall not apply.

Senator DOLLIVER. Then you are not seeking to amend the New York law except so far as it refers to those contracts which in their nature could be executed outside of the State?

Mr. DOWNEY. It would not be of any use for us to fight it.

Senator DOLLIVER. This law applies to matters and deals with contracts which in their very nature must be executed here or not executed at all?

Mr. DOWNEY. Yes, sir; but you are bearing in mind only Government work. Please take this view of it—that the employers of the country and the manufacturers of the country realize that a general eight-hour Government law on Government work throughout the United States will certainly entail an eight-hour law on all commercial work. That is what we fear, that is what we believe, and that is what we know.

Senator DOLLIVER. How will it do that?

Mr. DOWNEY. Simply because if you legislate that we must work only eight hours a day on Government work, the labor-union representatives will immediately go to work and say: "You must only work eight hours a day everywhere," and they will have the sentiment of the men with them.

Senator DOLLIVER. Do you understand that this proposed law is applicable to any Government work, substantially, except shipbuilding?

Mr. DOWNEY. I understand that it applies to all Government work.

Senator DOLLIVER. To the auxiliary industries?

Mr. DOWNEY. I understand that it applies to Government contracts. It does not specify shipbuilding. If it did we would have a right to come here and fight the matter, whereas now we are coming here to reason about it. If you should discriminate against the shipbuilder in your eight-hour law it would be class legislation.

Senator DOLLIVER. Do you recall any other industry in your State to which it might be applicable?

Mr. DOWNEY. If it only applied to the shipbuilder it would reach back to the farmer. The shipbuilder does not manufacture his lumber or his iron.

Senator DOLLIVER. Of course all Government contracts, such as those for public buildings and other public works, are already under the eight-hour law?

Mr. DOWNEY. Yes.

Senator DOLLIVER. That has not had any very marked influence, has it?

Mr. DOWNEY. It certainly has. The eight-hour labor day in the Brooklyn Navy-Yard of New York has done more to destroy the shipbuilding and repairing industry in New York than anything that ever happened. I know that from experience. I have been in the business for twenty-four years in New York. I have worked among the men and among the boys and among the employers and I think from my experience that the eight-hour law in the Brooklyn Navy-Yard has done more to destroy shipbuilding in New York than any other one thing that ever happened.

Senator DOLLIVER. Do you think of any other Government contracts which the bill regulates and which are not exempt under the provisions of it?

Mr. DOWNEY. A gentleman here yesterday said that they were manufacturing gun carriages in St. Paul, Minn., under a Government contract and under particular specifications. I dot not know what else that gentleman is manufacturing.

Mr. BEEK. He is manufacturing half a dozen different things.

Mr. DAWSON. If he is manufacturing 20 gun carriages and 80 articles for general commerce, then in 20 per cent of his industry he will have to work eight hours a day and in the other 80 per cent he will have to work nine or ten hours a day, and in that event he is going to demoralize the other 80 per cent. You know that a little yeast leavens the loaf. It changes the whole proposition. The eight-hour leaven introduced into the industrial proposition is going to extend.

Senator DOLLIVER. Is not the leaven already in the eight-hour proposition?

Mr. DOWNEY. It is, and we are suffering terribly from it. We have never made much opposition to these contracts, because it is only within the last few years that the employer has awakened to the situation. The situation is going to spread, and we have got to do something or quit. We have never opposed the labor unions or anybody else in any reasonable request; but this request you have here is absolutely wrong, and that is the reason we are here trying to show you what we know will happen. Just as this situation has been forced upon the manufacturers in New York, so will it be forced upon the manufacturers of the United States generally. Then the workman and the employer, together, will have to come here and ask you abrogate this law or amend it, so that we can get into the market this two billion and a half dollars' worth of business. Let us not to get experience. Let us not pass a law that will bring about a between capital and labor and cause the loss of our export trade let us stop where we are.

Senator DOLLIVER. Is it true that most of our exports are of produced in industries already under the eight-hour law?

Mr. DOWNEY. No, sir; not at all.

Senator DOLLIVER. How about the export of agricultural imp

Mr. DOWNEY. How many of the agricultural implement exported are manufactured upon the eight-hour basis?

Senator DOLLIVER. That is what I want to know.

Mr. DOWNEY. I do not know. I am not in that business and do not know anything about it in detail; but I am almost sure that there is more of it manufactured on a ten-hour basis than on a nine-hour basis. I think some of these western gentlemen will be able to tell you about that more in detail.

These questions are all to the point. They are what we want. We want to prove to you gentlemen that our case is not one of prejudice or of narrow-mindedness.

Senator DOLLIVER. You say that our exports of manufactures will fall very considerably in volume. Let me ask if our exports are not mainly of specialties?

Mr. DOWNEY. They are not mainly of specialties, but certain specialties form a certain percentage of them.

Senator DOLLIVER. I do not mean by "specialties" things that are peculiar to our country.

Mr. DOWNEY. I include under that also patented articles made in our country, which the foreigner must pay any price for.

Senator DOLLIVER. I notice in the reports that a very considerable portion of the exports seem to be of articles in the nature of machinery.

Mr. DOWNEY. Yes; and all manufactured in competition with the Englishman and the German. The Englishman and German is not asleep. He is manufacturing machinery, as I have personal and practical knowledge, because two years ago when I wanted to buy machinery that was supposed to be manufactured in this country—and I discovered that the good kind which I wanted was not manufactured in this country—I had to go to Glasgow and buy it. I bought $90,000 worth of it and paid 45 per cent duty on it. After buying and trying the other kind I had to condemn it, throw it away, and go to Glasgow to buy it, and then pay 45 per cent duty.

Senator CLAPP. What kind of machinery was that?

Mr. DOWNEY. It was shipbuilding machinery. Those people have been learning to make it for three hundred years. We are trying to make it and we are doing splendidly with it, but we have not yet accomplished it. We will accomplish it, however, and then we can make it when there is a demand for it. But there never can be a demand for that machinery in this country until we do something to develop the industry in this country, and we can not do that under an eight-hour day when the other man is working ten or twelve hours a day or whatever is necessary.

When you go into the ramifications of this proposition and consider all the things it reaches, it is appalling.

We say that you can not afford to adjust the status quo. If this is bad, do not let us disturb it; and if it is good, leave it to the employers and the workmen. Evolution will bring this out. If ultimately this country can afford an eight-hour day, it will have it. The employer wants it as much as the men. There is no doubt about that. At meeting after meeting 60 out of 70 of our employers have discussed this question, and the unanimous mind on the subject is that we would like to see an eight-hour day.

The CHAIRMAN. How many shipyards or ship-repairing plants are there around New York and adjacent to it which are now working on a nine-hour basis?

Mr. DOWNEY. There are about nine.

The CHAIRMAN. There are about nine shipyards which are now working on a nine-hour basis?

Mr. DOWNEY. Yes, sir; except in the iron-plate department and on repair work outside of the shops, where there is an eight-hour day. I suppose that 20 per cent of the whole of the industry in New York is on an eight-hour basis, and that eight-hour day has bothered us tremendously. There is a movement on foot now in New York City among the employers to ask the labor people to sit down with us and discuss it without any quarrel or any disturbance and to try and get together on a nine-hour repair day. For illustration let us take a large ship that goes ashore on the coast. She is gotten off and put on the dry dock and surveyed. Then specifications are sent to the New Yorkers, to the people in Philadelphia, to the people at Sparrows Point, and to the people at Newport News to figure and bid on that job. The New York employer realizes that with an eight-hour repair day he is simply not in it with Philadelphia and Sparrows Point and Newport News, where they are working nine and ten hours a day.

Senator DOLLIVER. Are your people paying as much for eight hours as you paid for nine?

Mr. DOWNEY. Do you mean to ask if we are paying as much for eight hours as they are paying for nine?

Senator DOLLIVER. Yes.

Mr. DOWNEY. We are paying more, and we are paying it for a short day as against their longer day, which makes a difference of about 15 per cent, so that we are tremendously handicapped. The handicap which exists in New York as against the outlying districts under this law will certainly exist against this country as compared with foreign competitors.

On the subject of our exports I want to say that the majority of the exports of this country, amounting to two billions and a half of dollars, is the surplus production of the mills that have been built and are being operated to supply the demand in this country. We have always attempted to supply the demand in this country, and in boom times, such as we have had during the last four or five years, a tremendous manufacturing capacity is naturally developed.

When that boom begins to decrease your demand decreases. Then the manufacturer, who has enthusiastically invested his money and built gigantic mills, discovers that he has three or four or five million dollars invested in a plant and has three or four thousand men drilled to do the things he wants to do, but he also discovers that he has only got 60 per cent of the capacity of his mills in orders on his books. He says: How are we going to arrange this? We have either got to stop the mills 40 per cent of the time, or we have got to discharge 40 per cent of these men, or we will have to get this work done on three-quarters time or half time in order to keep the working force together. He has got about eight or ten horns to his dilemma. He has settled that proposition, during the last few years, by keeping the mills running; by keeping the men employed; keeping up the output; by selling to the American consumer what he wants at a price that is made under a tariff, with high wages and short hours, and then there is 10 or 20 or 30 per cent of surplus product manufactured. What is he going to do with that? He immediately looks to the foreign market. He employs an agent abroad to ascertain what he can get for so many thousand tons of this or of that. His agent cables back that the Englishman is

laying that stuff down on the dock for so much a ton and he can get the same price for your stuff laid on the dock.

The American manufacturer figures that up, and I fully believe that that price amounts to about his manufacturing cost price. The Englishman is selling it and making a profit out of it on account of his lower wages and longer hours. When those goods are landed in South America or Australia he can make a profit. But when the American puts his goods on the dock and competes with that price he is very fortunate if he gets manufacturing cost. That is what is making the very great majority of our export trade to-day.

The CHAIRMAN. I am sorry that we will have to ask you to conclude your remarks, because there are two other gentlemen here to-day from a distance who desire to be heard, and the committee will not meet again until next Tuesday.

Mr. DOWNEY. I will conclude by saying most emphatically that I beg of you, before you report this bill favorably, not to rest on sentiment or imagination or upon theory in regard to the matter. This is the most vital piece of legislation. There is no legislation pending in the United States to-day that is so important as the little bill you have in hand. There is no doubt about that. If it is a good thing we can afford to wait a year for it. If it is a bad thing we can afford to wait a hundred years. If there are other means that you gentlemen have in your hands to investigate and find out whether the statements made here by the employers are true and practical, or whether the statements made here by the promoters of this bill are true and practical, looked at from an economical standpoint, exhaust those means before you report this bill favorably; because, if this bill is reported and passed, inside of five years the men who are promoting it now will be here begging you to repeal it. That is simply the logical result. We must have the results of our manufacturing and of our work, and you can not legislate to define what is the economic best as between an eight-hour workday and a ten-hour workday.

I say that you can legislate if you like to prevent me from working an extraordinarily long time in the twenty-four hours because that will be immoral, cruel, and unprofitable to both the men and the employers. If the men arbitrarily decide that they will only work three hours a day, legislate against that. But when you come down to such a fine point as to upset the whole basis upon which the manufacturing of the United States is founded, the difference between eight hours and ten hours, and legislate about that, it is a mistake.

I make the request that if you believe this is a good thing wait a year, and exhaust every method under your control to ascertain what will be the exact situation of both sides on this question, and then I prophesy that you will not pass the bill.

I thank you very much for your courtesy in hearing me.

Senator CLAPP. Mr. Beek is here from a distance, and would like to have an opportunity to address the committee.

ARGUMENT OF JOSEPH H. BEEK.

The CHAIRMAN. What is your full name, Mr. Beek?

Mr. BEEK. My name is Joseph H. Beek. I reside in St. Paul, Minn.

The CHAIRMAN. Whom do you represent?

Mr. BEEK. I represent the St. Paul Jobbers and Manufacturers'

Association, of which I am secretary. That is an association made up of business concerns, both jobbers and manufacturers, which has for its object the development and furtherance of the business interests of the city of St. Paul primarily and also of the State of Minnesota and the entire Northwest. I represent also the Citizens' Association of the city of St. Paul, an organization made up of employers, employees, jobbers, manufacturers, and professional men of all classes, organized for the purpose of avoiding labor difficulties in our midst which result in interruptions to business and incidentally in large losses. I represent indirectly, but not officially, the Commercial Club of the city of St. Paul, a semisocial business organization, having a membership of about 1,500, of which our distinguished Senator is one. I represent indirectly, but not officially, also the St. Paul Chamber of Commerce, an organization representing the general business interests of the city, but it is not a trading body. It is rather a body given to the discussion of public questions and to the expression of public sentiment.

I do not officially represent these two last-mentioned bodies; but as both of them have discussed this bill at considerable length and as I was present and took part in the discussion, and the resolutions adopted by both bodies are filed here, I feel at liberty to say I represent them, at least unofficially.

It is apparent to me from the questions that have been asked this morning, notably those asked by the distinguished Senator from Iowa, that there is a misapprehension as to the actual effect of this bill upon business operations. When I say to you, Senator Dolliver, that it is practically impossible to apply the provisions of this bill to many industries that are covered by it—and I refer now to industries that are doing both Government and commercial work—I expect to be able to prove to your entire satisfaction that that statement is correct. There is with me in Washington to-day a gentleman who spoke to you yesterday, Mr. Oliver Crosby, the president of the American Hoist and Derrick Company, of the city of St. Paul.

You gentlemen know that we are an agricultural country and that we have not, as compared with the eastern portions of the country, very much manufacturing. But we are endeavoring to build up in that section of the country manufacturing industries, and we have made considerable progress in that direction in the twin cities and at the head of the Lakes. The same thing is true of your State, Senator Dolliver. The American Hoist and Derrick Company was founded about twenty years ago, and it has grown until to-day it is a large and prosperous institution, employing, as Mr. Crosby stated here yesterday, about 500 men. It is his statement that within ten years it has brought into the city of St. Paul and executed Government contracts to the extent of about a million dollars. A large proportion of that represents wages paid to its employees and spent in our midst for living expenses.

Senator DOLLIVER. What do they make?

Mr. BEEK. I think they first commenced making gun carriages. When I speak of gun carriages, I am not preparded to describe them technically, but they are very large devices that are used on defense work and on battle ships, I believe. They require large castings, weighing from 25 to 40 tons. They make, in addition, large cranes that are used in the navy-yard. They built a crane and installed it at the Mare Island Navy-Yard, San Francisco, costing the Governme

$75,000. They built one that is now installed at the navy-yard at Boston. They built one that is at the Philadelphia yard, and they are now building one for the Government at some other point. It is now in process of construction.

We have in addition, half a dozen other concerns in the city of St. Paul, which do more or less Government work, particularly structural ironwork, such as the St. Paul Foundry Company, the Herzog Iron Works, and in Minneapolis I recall the Minneapolis Steel and Machinery Company. There are a number of other concerns in both St. Paul and Minneapolis whose names I do not recall, which do a good deal of interior-finish work.

It is true, therefore, that the provisions of this bill will apply to even as remote a State as Minnesota, and to an agricultural section such as ours is, chiefly.

Gentlemen of the committee, I contend that it is to the decided advantage of the Government of the United States to be able to purchase or have any of these articles which it requires made in more than one section of the country and in more than one plant. And I believe that the Government should, in every proper way that it can, encourage the building up of industries of this kind which can handle its work in any section of the country.

The CHAIRMAN. You have named one industry which Mr. Crosby described yesterday. What other industries, in your section of the country, do you apprehend are affected by the provisions of this bill?

Mr. BEEK. I have just named the St. Paul Foundry Company and the Herzog Iron Works, which deal principally in structural ironwork, and also several woodworking concerns doing interior-finish work.

Senator DOLLIVER. Do you consider that interior wood finishing for Government buildings is included in the operation of this bill?

Mr. BEEK. Unquestionably, Senator. You can not buy interior wood finishing in the open market. They are made under specifications and made to order for specific jobs. You could buy wagons in the open market. I assume the bill would would not apply to wagons, because while you may make them for the Government of a specified kind, yet a wagon is an article of commerce that is sold on the open market everywhere. But interior finish is not, I think, sold in quantities on the open market. Am I right in that?

Senator DOLLIVER. I wanted your judgment about it.

Mr. BEEK. That is my judgment.

Senator DOLLIVER. I have received the impression somewhere that the bill had been somewhat narrowed, so as to practically exclude all of these things.

The CHAIRMAN. And so it has. The exception applies to such materials or articles as may usually be bought in the open market, whether made to conform to particular specifications or not, and to the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not.

Mr. BEEK. That is true. Groceries would not be included; wagons and numerous other articles would not be included, for they can be bought on the open market. Door frames, window frames, window sashes, and things of that sort are also made and sold on the open market; but I contend that interior wood finishing, as such, is not sold upon the open market.

The CHAIRMAN. Do you not think, from an examination of the sec-

ond section of this bill, that it must be a very limited class which is not excepted by it?

Mr. BEEK. No, sir; I do not agree with you in that at all.

The CHAIRMAN. Will you finish your answer and state what other things in your community besides gun carriages and cranes are affected by the provisions of this bill, in your opinion?

Mr. BEEK. I will do that; but before I refer to that I would like to say that I am thoroughly familiar with the exceptions to which the chairman has called attention, and all I have to say about them is that they are so ambiguous it is impossible for anybody to determine with any great degree of certainty what is and what is not covered by this proposed law; and you can not amend the bill to make it any more specific. In my judgment it will require the decision of the Supreme Court of the United States, or of some appellate court, on every single one of these questions when they are raised, to get an adjudication that will define it with certainty. If that be true, is it reasonable to expect that manufacturers will bid when they think they will be subject to the provisions of this law in addition to the chain of difficulties which arise in doing Government work under any conditions?

Mr. DOWNEY. And the Government payments are always held up until the final decision is given on these questions. The contractor has his money held up by the Treasurer in Washington until a final decision is arrived at.

Mr. BEEK. It has been argued at some length that an eight-hour day on Government work and a nine or ten hour day on commercial work in the same plant is impracticable and generally impossible. I do not need to elaborate on that branch of the subject, because I believe it is a self-evident fact. It will breed discontent among employees. It will make all kinds of confusion and trouble; so that the effect of it will be that the manufacturer doing Government work in a small way, with perhaps 10, 15, or 20 per cent of his output Government work, will abandon that class of work entirely and confine himself to commercial work, thus reducing competition on Government work.

Senator DOLLIVER. Will you state what are the legal hours of labor in the State of Minnesota, or whether there has been any action by the legislature upon that subject?

Mr. BEEK. There is what is called the eight-hour law on State work, but I do not think the law is observed. There have been no attempts to enforce it so far as I know. In fact, so little is known of it, that when the matter was brought up and the law submitted at a meeting of business men in the city of St. Paul only last week, there was not a single man of the entire lot who knew of it. I did not know until a week ago that such a law was on our statute books. We are building a new State capitol in St. Paul, Minn., now——

Senator DOLLIVER. On a ten-hour basis?

Mr. BEEK. I do not know as to that. I can not answer positively.

Now, gentlemen, everybody who has any experience with Government work knows that it always drags. I suppose there is no help for that and no criticism can be made upon it, because there is a certain amount of what we call red tape that is necessary in such collossal operations when carried on at long range by agents.

But Mr. Crosby and other Government contractors have told me that never in their experience have they had a Government contract where they have been able to complete it on time without exhausting

every possible resource, by working overtime, holidays, and Sundays. The result is not due to any want of foresight or to any neglect on their part, but is due solely to the tardiness of the various bureaus at Washington in approving specifications and drawings submitted or furnishing specifications, or to any one of numerous things to which they are obliged to get Government consent or approval from Washington. Last December Mr. Crosby took a contract for a Government crane and he worked his men as hard as he could to get his specifications out. He put them into the hands of the proper department in this city on or about the 10th of January, and not until yesterday did he get those drawings and specifications approved so that he could proceed with his work. Ordinarily, as a prudent manufacturer, he would not be justified in ordering his materials until his specifications and drawings had been approved. Had he waited to do that there would have been a still longer delay; but he had placed his order for his raw materials and they are on the way, and he is practically ready to proceed with the work when he returns.

But other delays occur. It is possible that a strike may intervene, a fire may occur at his plant, high water, or a dozen other things may intervene to make a little delay here and there, which may render it almost impossible for him to complete his work on time. His contract carries a penalty clause. What is he going to do? He is going to do the only thing he can do, and that is get his men to help him out of that dilemma by working one or two hours overtime and by working holidays and on Saturday afternoons to avoid that penalty. Now, under this proposed law a man is absolutely helpless. He is between the upper and the lower millstones, and he can not turn either way. If he works his men overtime and pays them for it, he has violated the provisions of this law. That is one of the practical difficulties. These instances could be multiplied by any practical manufacturer.

Now, let me give you another illustration. In manufacturing the gun carriages of which I have spoken, every steel and iron manufacturer will tell you in making large castings there are difficulties which impose themselves, and which can not be foreseen. The cupola does not work well or the melting goes slow or the cores are not gotten into place as rapidly as they should be. They have started the work early in the morning and are pushing it as rapidly as they can. The eight-hour limit expires with a great mass of molten metal in the cupola, and they are just ready to pour. What are you going to do? Your eight hours is up, and if you continue work the penalty will apply.

Senator DOLLIVER. I think there is an exception to a case like that in the bill.

Mr. BEEK. There is an exception providing for emergencies, but who determines what is an emergency? I am glad you asked that question. Have you got to send to Washington and hold your mass of molten metal until you get a ruling from Washington? No, sir; they have got to act. There is nobody on the grounds to consult. You have got to go ahead and pour the metal; you have got to violate this law or ruin your furnace.

Mr. CROUNSE. Is it not a fact that such an emergency is likely to occur almost any time, or 20 times a month?

Mr. BEEK. It may occur any day and occur constantly. The same thing would apply to building operations. You have got your mate-

rial in mid-air, with your framework up, and you can not leave it over night until the work has reached a certain stage because of the danger of windstorms and the resulting destruction of property. There are a thousand and one things that have to be considered.

Mr. Johnson, of the Bethlehem Iron Works, spent the whole of his time when he was before this committee elucidating some of these questions. The Government in its specifications requires steel for certain kinds of work that will stand certain tests. That steel has to be made specially and it has to be made by skilled men, and the man who starts the work must see it through to the end. Sometimes they work as long as twenty-four hours a day, and one man, I think, testified to having been constantly on duty for thirty-six hours. He did not dare to leave the work sooner.

These are some of the difficulties that occur, and under the provisions of this bill what are you going to do?

The honorable Senator from Iowa, in interrogating the former speaker, asked if there had been any malign influence under the law requiring the Government to do all its work on an eight-hour basis. I am not prepared, gentlemen, to go into that question to any great extent, but I want to cite one illustration and then pass on to another subject. You have all the facts and figures in your own hands and can investigate the subject further if it interests you. Some years ago the Government decided to build two battle ships, the *Raleigh* and the *Cincinnati*. The cost of them was limited by the Government to $1,100,000 each.

The Government asked for competitive bids. The Cramp Shipbuilding Company put in a bid, which was $1,225,000 each, and they were to complete both in three years. The Government could not let the contract because their bids exceeded the amount of the appropriation. The Government proceeded to build them itself. It built one at one navy-yard and the other at another yard, and it built them on the eight-hour day basis. One of those battle ships cost $1,889,000, as against Cramp's bid of $1,225,000, and the other cost $1,900,000, and it took six years to complete them. The total price that you paid for those two battle ships would have bought you three.

The CHAIRMAN. You say those were the *Raleigh* and the *Cincinnati*?

Mr. BEEK. Yes, sir.

The CHAIRMAN. In what navy-yards were they built, on an eight-hour basis?

Mr. BEEK. In the Government navy-yards; but if you want more specific information I will have to obtain it for you?

Senator DOLLIVER. I would like to have a little more definite information about that. I have no recollection of it.

Mr. DOWNEY. It is all on record at the Navy Department.

Mr. BEEK. This information was given to me before I left St. Paul, in connection with some of the other statistics, which, unfortunately, I have not here. I make that statement, however, and I still insist it is a correct statement of facts.

Senator DOLLIVER. If the *Cincinnati* and the *Raleigh* were built in Government shipyards, it has entirely escaped my recollection.

Mr. BEEK. It is possible I have misstated the names of the ships, but those figures and that state of facts apply to two battle ships; I think they apply to the two I have mentioned.

Senator DOLLIVER. They were cruisers, not battle ships.

Mr. BEEK. I never saw either a battle ship or a cruiser, and so I am unable to say what they were; but the principle is the same—they were Government ships.

Senator DOLLIVER. They were building a ship in a Government navy-yard about ten or fifteen years ago, and I think they are working on it yet. I do not think they have ever tried the experiment since that time.

Mr. DOWNEY. The cruiser *Maine* was built at the Brooklyn Navy-Yard.

Mr. BEEK. There is another difficulty here. Have you thought of the penalty connected with this bill? There is a presumption under our laws that a man is innocent until he is proven guilty. But this law reverses the order of things and presumes that a man is guilty until he has proven his innocence. In other words, whenever the penalty is applied the offender is found guilty and the punishment inflicted, without any opportunity for him to defend himself.

Look at the situation in which the contractor who has taken a Government contract under the provisions of this law finds himself. He immediately lets a subcontract to one or more subcontractors. He attempts to protect himself against his subcontractor by putting a provision in his contract similar to the provisions which this law requires to be put in his own contract. He contracts with reference to the law and is bound by it. Suppose that, without any knowledge on his part, the subcontractor violates the terms of his contract and works his men more than eight hours a day. The matter comes to the notice of the proper Government officer and the remedy is applied. The amount of the forfeiture is held up. Then the subcontractor comes along and wants his money. The contractor very properly says to him, "The Government has fined me because of your default and I will have to hold up this money." The subcontractor denies it. That raises an issue of fact to be determined in a court of law by a jury of 12 men regardless of the terms of this law. This law does not supersede the constitution of the State where the contract arises. The State court would be the proper forum. I can conceive a case in which the contractor can be punished for the violation of the law on the part of the subcontractor and where the subcontractor would defeat him on an issue of fact.

The CHAIRMAN. Is it not manifest that the contractor would protect himself against the violation of the law on the part of the subcontractor, and would embody in the subcontract the terms of his own contract?

Mr. BEEK. I have so stated.

The CHAIRMAN. And the contractor would ordinarily, as a prudent contractor, take a bond in respect to that matter from the subcontractor?

Mr. BEEK. But what good would his bond be to him? You can not enforce a bond until you have the judgment of a court of competent jurisdiction.

The CHAIRMAN. The contractor might put a provision into his subcontract that he is not to pay the subcontractor until he receives his pay from the Government. If there was a stipulation in the contract with the subcontractor that the contractor was not bound to pay the subcontractor until he had conformed to this condition in the contract, there would be no case in court until a breach had occurred, and a

breach could not occur on that contract unless it occurred in respect of the main contract.

Mr. BEEK. The chairman is proceeding on the theory that the subcontractor is going to admit his default, while I am proceeding on the theory that the subcontractor denies his default.

Mr. CROUNSE. The subcontractor claims that the entire contract was waived by the contractor in order to induce the subcontractor to furnish the materials on time.

Mr. BEEK. That raises a question as to the defense he may interpose in regard to the matter with the contractor. He may claim that the contractor knew he was violating the contract and waived it by his silence or by tacit assent.

Mr. CROUNSE. In order to get the material on time?

Mr. BEEK. Yes; to get the material on time.

There is another question on which I wish to speak for a moment and then I will close, although I would like to discuss the question further.

It was stated here yesterday, and it is conceded, that out of 440 pages contained in this record 264 pages are devoted to——

Senator CLAPP. Before you go on with that, let me ask you what you would say as to the effect of a contract between the contractor and a subcontractor that the subcontractor should be bound by the decision of the Government officer in relation to the contractor.

Mr. BEEK. You are now raising, perhaps, too big a question for me to answer.

Senator CLAPP. I am not asking it in any critical sense. I am asking you to get your view on the subject.

Mr. BEEK. Let me suggest that you are asking the subcontractor to contract away the court or the remedy which the law of his State has provided for him, and bring himself under the jurisdiction of the court of appeals provided for in this bill. I shall not attempt to say whether you can confer jurisdiction in that way by consent or not. I am not a practicing lawyer, but I think that this involves a question as to jurisdiction which I shall not attempt to answer.

It is conceded that the tendency in this country for forty years has been toward a shorter workday and a better wage. That is the inevitable tendency, and we concede it. We believe that, and we favor it. All that I have to say on that subject is that if it is true, and forty years of history demonstrates that it is true, and the last five years of history demonstrates that the shorter workday is coming with increasing rapidity, can we not safely leave this whole matter to evolution, to that growth and to development, that change in economic conditions that will bring about an eight-hour day in the natural and logical order of things without any friction or shock to the industrial progress of the country. I think it was Professor Gunton, of Boston, who said of this bill that it is an attempt to bring about an eight-hour day in a way that would produce the largest amount of friction. I heartily indorse that sentiment. If the laboring men of this country were being oppressed and were suffering it would be another question; but every man on this floor knows, and no man who will appear before this committee will dispute the fact that in this country to-day the hours of the laboring men are shorter, and they receive better wages, and their condition and environments are better than in any country on the face of the earth.

The CHAIRMAN. Let me interrupt you at this point to say that the *Cincinnati* was built at the navy-yard at New York and the *Raleigh* was built at the Norfolk Navy-Yard, and occupied between five and six years in building. What the cost was I could not ascertain.

Mr. BEEK. That is about what I stated. I think my figures also are correct.

The CHAIRMAN. In this connection I want to suggest to you that under this bill, as amended in the last Congress by the Senate committee and reported favorably to the Senate, there was a great change made in the terms of the bill which passed the House and came to the Senate. I reported the bill on behalf of the committee, and the same bill has been introduced in the Senate at this session. That bill has been introduced in the House and is being there considered. This bill is limited in its application to contractors and subcontractors, for the very good reason that they are the parties who make express contracts, the one with the Government direct and the other with the contractor. They enter into express contracts. That would not open wide the door in respect to agents, employees, and labor generally, with whom there could be only an implied contract.

The penalty is confined to the contractor or subcontractor requiring or permitting the men to work eight hours a day. In that case the terms of the contract made by the contractor would be embodied in the subcontractor's contract, and the contractor for his own protection would embody this provision as to penalty in the subcontract. The bill also provides that if either the contractor or the subcontractor are aggrieved by the withholding of any penalty provided for by this bill, they shall have an appeal to the head of the Department making the contract therefrom, if desired and if they are aggrieved by the imposition of a penalty, an appeal to the Court of Claims, which is given jurisdiction to decide these matters.

So that in respect of Government contracts the contractor and subcontractor, by the very terms of the contract, will have a remedy by appeal, a day in court, and a forum provided. The contractor has stipulated in the contract and the subcontractor has stipulated in the contract the forum which shall decide the case, and at the request of the aggrieved party, whether it be the contractor or the subcontractor, he can have his day in court. I apprehend, therefore, that your expectation that there may be a contest between the contractor and the subcontractor in the courts of the State where, as you say, the contract is made is not real.

A Government contract is made in Washington—that is, the situs of that contract. All of these difficulties have been provided for in the bill. I apprehend that you would have no trouble in respect of any constitutional right of trial by jury. I want to say further in that connection that this refers merely to property rights, and that we have had similar questions arising in respect of personal rights. It has been frequently decided in the Supreme Court of the United States that a man may be seized upon under our immigration laws and that the decision of the Department is sufficient legal process. On appeal, upon writs of habeas corpus, claiming their legal right to trial by jury, the Supreme Court has repeatedly held that this is an administrative function and that the hearing provided by the immigration law is "due process of law," and there is no need of and no right to an appeal to the court to review the action of the executive department.

The machinery here is of the same kind. It is administrative, as that is, and it is sufficient in respect of the right of personal liberty. It is also sufficient in respect of property rights.

Mr. BEEK. I am familiar with what you say with reference to the contractor and the subcontractor being bound, but I am not yet prepared to say that as to disputed facts growing out of a contract of this nature the subcontractor can not resort to the courts of his own State.

But let us assume now that your contention is correct as to the machinery that is provided for its enforcement. You have provided machinery that is necessarily going to be expensive and lengthy. It may necessitate the subcontractor or his attorney or his agent coming on to Washington to settle a disputed fact growing out of a comparatively small contract. He has got to travel twelve or fourteen hundred miles in order to settle it. I submit to you whether contractors doing a small amount of Government work—I submit to you the question whether they would be likely to bid with such a lengthy and expensive process of adjudication before them? I apprehend not. That, at least, is the feeling of the manufacturers with whom I have come in contact and of whom I know. They are small contractors with whom I have spoken. The large Government contractors can speak for themselves. I am speaking of a class of men of which there are 7,000 or 8,000 in the United States.

It seems to me that by legislation of this character there is great danger of stifling the ambition of the workingman. We are discussing the eight-hour bill as it is here, and as it applies to Government work. But, gentlemen, do not forget that it was openly stated, and is a part of the record here on page 41 of Senate Document 141, that the ultimate object of this bill is an eight-hour day on everything. That is the statement of Mr. O'Connell. And therefore when we come to discuss this bill we have a perfect right to discuss it in relation to what its ultimate effect will be. I say that the ultimate effect of a compulsory, ironclad, hard and fast eight-hour day in all of the industries of this country would have a tendency to check the ambition and initiative of the American workmen, and take out of the American boy and the American people that one thing which has characterized them as a nation, that restless energy, that spirit of activity and achievement that has carried us forward in the short space of our national life to a point which older countries have never reached in all their national history.

The CHAIRMAN. Then your main objection to this bill is that it will tend to bring the public mind to the adoption of a general eight-hour labor day.

Mr. BEEK. I submit, Mr. Chairman, that my argument is hardly susceptible of that interpretation. My main objection to this bill, at this time, is that it will inevitably check and shock the industrial progress of the country and that, at this time, with the information which this committee has before it, we are not justified in taking such action. I would like to say that a year ago, when this bill was discussed, the manufacturers did not pay much attention to it. At least, in our part of the country, they did not know anything about it. But industrial conditions a year ago, gentlemen, were vastly different from what they are to-day. If there is any doubt upon that point I have in my hand, and would like to make a part of the record, a letter written by Mr. James O'Connell to his subordinate unions throughout the

country last September or October, calling attention to the fact that industrial conditions had very greatly changed, and that it was time to call a halt.

The CHAIRMAN. You can read it if you desire.

Mr. BEEK. I would be glad to read it.

DEAR SIRS AND BROTHERS: Owing to the general falling off of trade throughout our entire jurisdiction, I desire to again call your attention to the necessity of exercising the greatest care in handling the affairs of our association, in order that our members may not, without sufficient cause or greatest provocation, involve themselves in strikes without first having secured permission to do so from the general executive board, as is provided for in our constitution, article 6.

During the past few weeks an understanding has been reached by the general officers of many railroads whereby a general reduction in the mechanical departments has been ordered, and already large decreases in the forces have taken place.

Retrenchment orders are being sent out to all of the large combinations, and the mechanical forces are to be reduced wherever possible to the lowest possible limit.

Private employers are reducing the forces wherever possible, and as a whole the situation is anything but bright.

I deem it my duty to call your attention to this state of affairs, realizing that our membership at large is not in as close touch with the general situation as I am at headquarters.

I am not a calamity howler, nor am I sending out this information with a view in any way to discourage our members to secure improved conditions of employment wherever possible, but the purpose of this information is to guard our membership at large against ill-advised information which would bring about strikes or disagreements with our employers.

A very great effort should be made to strengthen our ranks wherever possible, and, above all, to maintain the present organization, in order that we may be in a position to maintain the conditions of employment we have already secured, and to prevent any attempt on the part of our employers to take from us the shorter workday which we have so successfully battled for, and, further, to prevent any attempt on the part of the employers to reduce the wages.

I desire once more to call your attention to the decision reached by the G. E. B., in which our members at large were warned that members involving themselves in a strike of any kind without having first secured the sanction of the board would not be entitled to benefits, as provided for in our general laws.

If you have grievances or demands of any kind to present to your employers, they should first be submitted to me for consideration of myself and the G. E. B., in order that we may be in a position to give you full advice and instructions.

There are a large number of men engaged in detective capacity circulated among our membership throughout the country, and these men are engaged for no other purpose than to cause trouble. If they can not succeed one way, they will, of course, try another method, and unquestionably one of their practices would be to stir up trouble and induce men to make foolish demands and succeed in involving them in strikes which might result disastrously. You are, therefore,

warned to be exceptionally careful and not heed the advice of men whom you may not be thoroughly acquainted with.

Trusting you will give these suggestions your most careful consideration and advise all whom you may come in contact with of these instructions, with best wishes,

I am, yours, fraternally,

JAMES O'CONNELL.

Mr. CROUNSE. What is the date of that?

Mr. BEEK. I think it was issued in the latter part of September or early in October, 1903. But, gentlemen, it does not require any argument to show that industrial conditions to-day are not what they were a year ago. That is common knowledge. I say that with these facts staring us in the face it behooves this committee, it behooves Congress, and it behooves the laboring people themselves to go slow in doing anything that is going to check business and bring about a condition of depression such as we experienced in 1893. The pendulum has swung to one extreme and is now going the other way. It is a time for conservative men to proceed carefully. I suggest, in view of the questions asked here this morning to bring out the practical working and effect of this measure upon manufacturers, that it would be the part of wisdom to refer this matter, as was suggested here a few days ago, to some bureau to report to this committee or to Congress such statistics as would give this committee or Congress the facts with relation to the hours of work and the wages paid in the various industries in the various sections of the country.

I thank you very much for your attention.

Senator DOLLIVER. Would you say that a file case, such as the one in this room, if ordered for a public building—for example, a court room—would be covered by the terms and provisions of the proposed act?

Mr. BEEK. I would say this: That you can not go into the open market, into any store or show room in the United States, and buy anything like that. They are not for sale on the open market, although they are as common as chairs. You could buy one section of that as a bookcase, or you might buy two and put them together, but I do not believe you could buy it as it is, and if you could not it would surely come under the terms of this act.

Mr. DOWNEY. If that bookcase was included in a Government specification, specifying its height, its length, its width, and the kind of hinges that should be put on it, the way the joints should be made, and generally the entire construction of it, then it would undoubtedly come under this law.

The CHAIRMAN. The exception provided for by the bill is "all articles usually bought in the open market, whether made to conform to particular specifications or not." I have had the misfortune to have the law library of my partners and myself, and our furniture, burned in the Baltimore fire last month; and my mail is crowded with propositions to furnish all sorts of things in any form I want them.

Mr. CROUNSE. To be made to order?

The CHAIRMAN. To be made to order or supplied from stock; it does not matter which.

Senator CLAPP. A bookcase of that general kind and character could be ordinarily bought in the open market?

Mr. DOWNEY. I venture to say that you could not go into the city of New York and buy that bookcase to-day.

Senator DOLLIVER. I want to get at just in how many directions this bill would be likely to reach.

Mr. DOWNEY. It is a difficult thing to say where it begins and where it ends.

I would like to state one experience I have had in my own business. I built a Government ship and when we were all through with her there was a question involved as to a $5,000 penalty. I had the recommendation of the Government officer in charge of the contract that the penalty should be waived and specifying the reason. But when my bills came to Washington to the Treasurer, finally, for settlement, he said that there was a question in regard to that $5,400, as to whether it should be held up or not, and that he would have to decide that it should be held up in order to make himself and the Government safe and that I could have recourse to the Court of Claims. The amount involved was a considerable sum of money, but upon investigation I found that it would cost me so much to move the machinery of the law and that I would have to pay so many lawyers' fees in Washington and New York that I abandoned the $5,000.

The CHAIRMAN. And that happened to you under the existing law?

Mr. DOWNEY. That will happen, invariably, under this law.

The CHAIRMAN. I want to state here that I have been considering this measure for several years, and I am amazed to find the misapprehension the manufacturers and business men of this country have as to the scope of the bill. The infinite variety of things that people come here and say are covered by this bill, and the confusion and misapprehension that exist in regard to it amazes me, after giving it careful and patient reflection and study year after year. It does seem to me this misapprehension is being industriously spread by the gentlemen who are seriously opposed to this bill upon other grounds in order that those who are not at all affected by it may be made anxious about it. I suppose that is to be expected. The language of the bill does not mean what has been claimed here. I think that intelligent lawyers, who differ about many things, have agreed and do agree with the statement I have just made.

Mr. DOWNEY. I appreciate that, Mr. Chairman, thoroughly. It is not for the contractor or for the Department to decide the fine points involved in this bill. I believe that, ultimately, the result will be as you say. But as the contractor can not decide it and as the chief of the Department can not decide it, the contractor must go through all the machinery that you suggest, and finally to the Court of Claims. It makes it so difficult and so expensive that unless the amount involved is very large, the contractor simply can not afford to take advantage of the machinery.

The CHAIRMAN. I want to say that 95 per cent of the things contracted for and purchased by the Government are contracted for and purchased from materials, articles, and supplies that are excepted by the provisions of this bill. That is my judgment about the matter.

Mr. DOWNEY. That will have to be finally decided by the courts.

ARGUMENT OF WILLIAM C. SHEPHERD, OF WILKESBARRE, PA.

The CHAIRMAN. Mr. Shepherd, will you state your name and whom you represent?

Mr. SHEPHERD. My name is William C. Shepherd. I represent the firm of W. H. Shepherd & Sons, general contractors, of Wilkesbarre, Pa.

I am here, gentlemen, to give you a little idea of the practical working of the eight-hour law as seen in Wilkesbarre and surrounding cities. Before I proceed, however, I want to say that I come here as the representative and president of the Employers' Association of Wilkesbarre, which numbers some sixty-one firms. I also represent the Builders' Exchange of the city of Wilkesbarre.

I want to say that, coming from a State like Pennsylvania, which is one of our greatest industrial States and which has been working under an eight-hour State law for several years past, I come in contact with what is called the most close order of organized labor. I have been on the firing line for the last five years. When I speak of organized labor, as I must do to give you the experiences we have had under this law, I want it understood that I am not unfriendly to it. I believe in organized labor for all good and sufficient purposes; but I am opposed to its abuses. I want to speak somewhat of the experiences we have been working under in our section of the country.

I understand fully and sufficiently that this bill refers to Government work. I also know that it must come, as the gentleman who has preceded me says, in a commercial way to the whole country at large. John Mitchell has said that Wilkesbarre is the best organized city in the Union. He means by that that all lines of business have been thoroughly organized and that it has been almost impossible to do business there unless you do business with organized labor, which means the eight-hour law.

When a committee of organized labor some years ago appeared at our own establishment—we were running a general contract establishment, a lumber yard, and a plant and mill—they asked for a nine-hour day. We consulted our old men and they said they wished a ten-hour day. They were not members of any union at that time. We stood out against a nine-hour day and it cost our firm a great many thousand dollars before we were persuaded to grant and compromise on a nine-hour day. When the committee called I asked their purpose and object in wanting a nine-hour day, and they said they proposed to have it and would get it. I said: "If you get a nine-hour day, would you insist on an eight-hour day?" They said: "Most certainly." I said: "Will you eventually move for a seven-hour day and a six-hour day?" They said: "Of course we will." Eight hours is what the union has forced on all lines of business in Wilkesbarre.

I had a talk with the manager of a lace manufacturing plant at Wilkesbarre some months ago and he told me that in the last ten years they had had more than a thousand strikes. In their mill they have a number of departments and the men and women belong to some eleven different unions. I have seen three strikes at one time declared in that establishment.

I submit to you, gentlemen, that being the case, how is it possible for manufacturers to continue their business under such conditions?

Ordinary business conditions make it sufficiently hard to build up and develop a business, let alone the effort that organized labor is making to get as high wages as possible. In my own business four years ago an ordinarily good carpenter received $2.25 a day for ten hours' work. To-day the poorest man in Wilkesbarre demands, as a carpenter, $2.60 for eight hours' work, which is an advance of about 44½ per cent, and in the development of this eight-hour system they have driven thousands and thousands of dollars away from the town.

Senator DOLLIVER. Would it not help Wilkesbarre if you could get the whole country mixed up in that kind of a thing?

Mr. SHEPHERD. In a selfish sense it would help us very much. I mean to say, however, that with such high wages and short hours it has not been possible to put up buildings and business has been driven away from the city. I have never yet seen a shorter work day come without an increased rate of pay. Organized labor in Wilkesbarre always demand shorter hours and increased wages. The Board of Trade of Wilkesbarre, after trying two years to secure industries for the city, announced at its recent annual meeting "that they had been unable to secure any new industry, notwithstanding its best efforts," and, gentlemen, there is some doubt about retaining some that we already have. There are manufacturers there, such as the Hazard Manufacturing Company, wire ropes; the Vulcan Iron Works, Wilkesbarre Lace Manufacturing Company, W. B. and W. V. Lace Manufacturing Company, Galland Brothers, underwear; Sheldon Axle Company, Hess, Goldsmith & Co., silk mills, and others. Some of them do an export business and they are affected by this law.

Senator DOLLIVER. Do you say there are industries in Wilkesbarre affected by this law?

Mr. SHEPHERD. Yes, sir.

Senator DOLLIVER. What are they?

Mr. SHEPHERD. The Hazard Wire and Rope Works and Vulcan Iron Works.

Senator DOLLIVER. Do they contract to furnish material to the Government?

Mr. SHEPHERD. They do, in a limited sense—to Government contractors.

Senator DOLLIVER. What do they furnish the Government?

Mr. SHEPHERD. They furnish cables and machinery.

Senator DOLLIVER. That is, merchantable rope, that can be bought in the open market?

Mr. SHEPHERD. Yes, sir; I believe so.

Senator DOLLIVER. So that it is not covered by this bill?

Mr. SHEPHERD. No, sir. Some time since the Government erected a post-office building at Wilkesbarre, and it has just been finished. We had the plans and specifications at our office and were not able to figure on it because of the peculiar requirements of the contract. The Senator was speaking of this bookcase. The specifications for this building submitted to us called for certain kinds of wood, certain kinds of material, and there were plans and drawings showing how the cases should be made.

Senator DOLLIVER. There is an eight-hour clause applying to such contracts now, is there not?

Mr. SHEPHERD. Yes; I believe there is. There was in the contract and specifications on the post-office building.

Organized labor is so strong that they succeeded in inserting in the contract for the building of the new court-house in Luzerne County a clause that not only called for eight hours work, but for the employment of only union workmen.

Senator DOLLIVER. That was under the law of the State of Pennsylvania?

Mr. SHEPHERD. Yes, sir; so far as eight hours is concerned.

Senator DOLLIVER. There are no industries in Wilkesbarre that would be directly affected by this law?

Mr. SHEPHERD. They would be directly affected in a commercial way, because the labor unions will force the eight-hour day throughout the United States.

Senator DOLLIVER. That would be a very great advantage to you if you are now discriminated against and compelled to work on an eight-hour basis when others are working ten hours. It seems to me it would be a great advantage to you to have the eight-hour day adopted throughout the country.

Mr. SHEPHERD. It would be no material advantage, for organized labor would force the price of labor so high that it would be no material advantage to them or to anybody else, because relatively we nor they would be no better off. Industry could not thrive under the pressure and manufactures would of necessity cease.

Senator DOLLIVER. But you would then be on the same basis as the rest of the country.

Mr. SHEPHERD. In that sense we might be better off, as compared with the present situation. But what I want to speak about is the injustice in the attempt of organized labor to insert in a contract a clause that none but union labor shall be employed. Independent labor is entirely cut out, notwithstanding the fact that there are very great numbers of them and they should be given an opportunity to work.

Senator DOLLIVER. This bill has nothing to do with that feature of it. As I understand you, there is no independent labor in Wilkesbarre?

Mr. SHEPHERD. Yes; there are a number. There are some few people who are independent enough and spend money enough to maintain what we call an open shop. It is very costly and is sometimes hazardous for men to run their own business as they would like to do, even in Wilkesbarre. I think we ought to have the fullest protection for independent labor.

I want to speak for a moment of the fact that Wilkesbarre is at a standstill at the present time, and has been for four years, because of the peculiar operation of this law and the advances in the price of wages coming from it. I met a very large capitalist there the other day and he said that he had been wanting to build three buildings for some years past, but he was not willing to go on with them because of the peculiar state of affairs. The Miners' Bank of Wilkesbarre has long wanted to build a building which will cost from $100,000 to $150,000, possibly, and they have abandoned that project, at least for the present, because of the peculiar conditions there.

Senator DOLLIVER. On account of the high prices of labor?

Mr. SHEPHERD. Yes, sir. In the city of Scranton they are working nine hours a day and in outlying towns a ten-hour day. Naturally this makes a great deal of confusion and trouble.

The CHAIRMAN. As I understand you, nearly all of the industries in Wilkesbarre are now working under the eight-hour law?

Mr. SHEPHERD. All the building industries are, but the manufacturers are working under fifty-four or fifty-five hours a week, I believe. The Vulcan Iron Works had several strikes during the course of the erection of a building by them some time ago when they attempted to put it up by working more than eight hours for a day's work.

The CHAIRMAN. Did you speak about lace works that are located at Wilkesbarre?

Mr. SHEPHERD. Yes, sir; there are lace manufacturing plants located there.

The CHAIRMAN. Have you an idea that lace curtains and laces are not excepted from the operation of this bill?

Mr. SHEPHERD. I think they are excepted.

The CHAIRMAN. You have no doubt about it, have you?

Mr. SHEPHERD. I do not think anything would be excepted under a Government contract that had to be made according to particular plans and specifications.

The CHAIRMAN. Then if you had lace curtains made according to a particular pattern you do not think they would be excepted by the bill?

Mr. SHEPHERD. If they were made according to a particular pattern, I should think not.

The CHAIRMAN. The language of the bill is "whether made to conform to specifications or not." Would not that put your mind at ease as to that one subject?

Mr. SHEPHERD. It might, possibly, but in connection with the post-office at Wilkesbarre all of those things were enforced.

The CHAIRMAN. You are now speaking of the act of 1892. That act did not have these exceptions. None of the industries you speak of, so far as I apprehend what they are, come within the purview of this statute if it should be enacted.

Mr. SHEPHERD. One of the peculiar things is that from 70 to 90 per cent of the employees in most of the industrial establishments want to work a ten-hour day, but they are not permitted to do so.

Senator DOLLIVER. Who prevents them?

Mr. SHEPHERD. The unions.

Senator DOLLIVER. But 70 to 90 per cent of them would control the union.

Mr. SHEPHERD. The union men tell me they are not permitted to cast their votes as they please. The officers of the union work these things as they please. Not many days ago the editor of one of the principal papers met me in the street and asked me if I did not think I was making a great mistake in taking an active part in the citizens' industrial movement, because of the damage it might do to our own business. That same paper at Wilkesbarre not long ago subscribed for the erection of a monument at Wilkesbarre to be erected to certain men who fell at Latimer in a riot. Eighteen or twenty men were killed who were rioting in open defiance of law and order. Now, gentlemen, public sentiment on the question of individual liberty and personal rights for a few years have been at low ebb in Wilkesbarre and vicinity, but during the past year a change has come over our people as well as the press, and I am very glad to say that monument will not be erected on any public land situated in the city of Wilkesbarre.

In behalf of the Employers' Association of Wilkesbarre, Pa., and Wyoming Valley, which my colleague, Mr. Patterson, and myself have the honor to represent, we desire to protest to the best of our ability against the enactment of such a law.

In America, above all countries, no restriction should be put upon individual effort and enterprise that would serve to check the progress of the nation. The development of the entire country from the time it assumed its place among the nations of the world, every epoch, has been marked by successful and individual effort along all lines to expand, to build up, and to make such period more successful than the period immediately preceding.

There is scarcely a limit to the tales that might be told of the splendid development along the lines of industrial progress made possible by the toil of men working for success, working for advancement, working for individual as well as national prosperity. No restriction of hours has as yet been a bar, and we hope none ever will be. Had this country in its Constitution adopted an eight-hour day, it is doubtful whether civilization to-day would have reached beyond the Mississippi. We should have been importing millions of merchandise, manufactures, and food stuffs; we should have had no foreign trade, and the energies and the ambitions of the people would have been stifled.

To legalize an eight-hour day is to stifle individual, State, and national advancement. It would promote socialism, that fungous growth of a decadent society that seeks to level civilization and that has raised its threatening head against the institutions of this country. It is the idle, the lazy, the socialistic, and anarchistic who hate honest labor, industry, and all toil. The tendency of organized labor to-day, choking all effort and endeavor on the part of the individual to secure advancement by industry and intelligence, is to give support to socialistic ideas in the leveling of the good workman and the bad one in demanding the same pay, in the shortening of the hours from ten to nine, nine to eight, and so on. If a precedent be set by the legislative branches of the United States enacting this law, will it not be easy to establish a seven-hour day, or a six-hour day, or a four-hour day, or anything else? On what grounds should the liberty of the individual to work for whom he pleases and as long as he pleases be abridged?

You are asked to approve such a bill, which is against the interests of independent labor of this country.

It is to them, three or four times as many in number, that you are asked to deliver this blow.

These independent citizens ask the same liberty of action as to their daily toil as has been granted to them in religious and other matters.

Should an eight-hour law be enacted it would deliver a blow to manufacturing enterprises in this country.

It can not be hoped that other countries will be ready to meet the United States on such grounds.

Naturally America, which pays to-day the highest wages to her artisans of any country on earth, can not meet foreign competition by advancing wages 20 per cent more.

The shortening of the hours of labor beyond the reasonable limits which the manufacturers of this country have now established—that is to say, ten hours—would mean also the loss of efficiency and skill.

In the city of Wilkesbarre, Pa., where the eight-hour and nine-hour

day have been forced upon the employers by the unions, a marked decrease, hour for hour, has been noted.

As an illustration in the increase of wages by the shortening of hours, I would say that a journeyman carpenter, four years ago, received in my city $2.25 for ten hours' work. To-day any kind of a carpenter receives $2.60 for eight hours' work, an advance of over 44 per cent. His efficiency has been greatly reduced.

In a large degree they are not amenable to discipline.

This condition of affairs, locally, has been the prime cause of the stagnation that exists in the building industry and of a material progress of the city for the last three years.

Enterprises established are interfered with in management and conduct of their affairs by incessant demands for shorter hours and more wages.

For several years past the united efforts of the board of trade to establish additional industries in the city of Wilkesbarre has gone for naught when outsiders have investigated the changed conditions of business.

A committee representing organized labor who, four years ago, called at my office demanding a nine-hour day, stated as one of the reasons for shortening the hours of labor that it was necessary to provide for the immigrants arriving weekly.

To the question asked the committee as to "whether they would want an eight-hour day after they secured the nine-hour day" they answered that "they would."

Asked if they eventually would move for a seven and a six hour day, they said, "of course."

I have never known or heard of a case where hours of labor were not shortened at the expense of the employer and the consumer.

In order to show the character of the immigration that organized labor is providing labor for and to show that these converts to their faith are drawn from the undesirable elements of the world's society, and to show why it is that the mining regions are the scenes of so much bloodshed and violence, I herewith append a list taken from the records of Luzerne County, December 22, 1903, of 1,049 citizens who swore allegiance to Uncle Sam during the year past—Russia, 510; Austria, 184; Hungary, 143; Italy, 57; Germany, 56; England, 46; Wales, 29; Ireland, 12; Scotland, 4; Prussia, 4; Sweden, Poland, Greece, and Turkey, each 1.

To the ignorance of the laws and customs of this country by the foreigners in their downtrodden state in the old country is ascribed the overladen dockets of the courts of justice in the mining regions.

The enactment of an eight-hour law would mean the enforcement of the closed shop—another step in socialism.

In many sections of the country none but union men can find employment.

I know one establishment where 70 per cent of the men employed are in the union against their own will. They are not now permitted to work more than eight hours a day, except with the consent of the business agent, and then time and a half time at such hours as they may see fit to set. These men are looking for freedom. They want to work longer hours. They are looking to Congress to give them relief as citizens of a free country.

President Roosevelt has said: "Every man must be guaranteed his

liberty and his right to do as he likes with his property or his labor, so long as he does not infringe the rights of others."

This, gentlemen, is brief, strong, and to the point.

The question has been asked by Thomas Shaw, in his articles in the St. Paul Dispatch, "Whether it is not true that labor unions, by unduly restraining hours of labor among their members, by insisting on a minimum wage scale, and by otherwise interfering unjustly with the work of employers, have so disturbed industrial relations that capital is already being withdrawn from investment—that greatest of all calamities, in a material sense, when carried to its full length, that can happen to employers?"

So far as my observation goes, I can answer "yes" to the above question.

In the building up of the Citizens' Industrial Association of America, and also admitting as members employees as well as employers, we see an association whose fundamental purpose is to establish harmony between capital and labor.

Its objects and purposes are to put down disorder and enforce the law, permitting every American citizen to work when, where, and at what wages he chooses.

The shortening of the hours of labor must come naturally if it is to come at all. The law of supply and demand governs the hours of labor and should adjust itself.

It has proven unwise in communities where it has been established.

The great diversity of the lines of business, trades, and interests bar out as highly undesirable and socialistic the enactment of a universal eight-hour law, which would mean in many cases loss of business and the closing of industries.

It would also mean an increase in the price of all commodities likewise; the wage-earner would be relatively where he was before.

His purchasing power would not be increased, and neither he nor anyone else would be benefited.

The advancement of the individual must come from individual effort and industry. He must produce more labor, which will bring him more pay.

No reduction in hours can increase wealth, but it will increase idleness and evil tendencies.

To see the mechanic on his way home with the school boys, with his day's work done, is a sight which, even in this community, excites comment.

Much better would it be for the individual and his family could he be employed several additional hours, earning for them in those extra two hours that sum that shall be the nest egg that is laid up against the rainy day; the start of a home, perhaps; that sum, may be, which may send his boy to college or set him up in business, as has been done by so many thousands.

There is no stifling of individual enterprise; in the hopes and aspirations of the home builder there is no coercion except that of home influences for the betterment of self and family.

In its atmosphere and surroundings will be found the ideal American wage-earner, who accepts and supports the laws, who helps make them, who is a home and nation builder, and who owes no allegiance save to God, his country, and his home.

We ask you, gentlemen, to be as staunch in the support of the rights

and liberties and the privileges of such a man, who is one of the several millions, as were your forefathers before you in the preserving of all that was dear to them.

Let not the bars be lowered that shall let in undesirable elements of society, that shall take away a man's birthright, that shall turn industry into idleness, ambition to indifference, and that shall furnish material well prepared to receive the doctrines of would-be destroyers of home and liberty.

The CHAIRMAN. The members of the committee have been very kind in coming here day after day. I realize, however, the pressure on Senators in other committees, and after consultation with a number of members on the committee, we have decided to adjourn until 10.30 o'clock on Tuesday morning of next week. We will then proceed with these hearings, in order that all may be given an opportunity to be heard. But in order that we may not be too long delayed we will have to be more insistent on a limitation of time than we have been at this sitting.

The committee (at 1 o'clock p. m.) adjourned to meet Tuesday, March 22, 1904, at 10.30 o'clock a. m.

WASHINGTON, D. C., *March 22, 1904.*

The committee met at 10.30 o'clock a. m.

Present: Senators McComas (chairman), Burnham, Gibson, Newlands, and Stone.

ARGUMENT OF R. M. ABERCROMBIE, OF ST. JOSEPH, MO.

The CHAIRMAN. Will you state your name and residence?

Mr. ABERCROMBIE. My name is R. M. Abercrombie. I am a resident of St. Joseph, Mo.

The CHAIRMAN. You appear in behalf of whom?

Mr. ABERCROMBIE. I represent the Business Men's Association of St. Joseph, Mo. I am the secretary and manager of the Abercrombie Stone Company. I represent also various other organizations. I have with me certain protests against the passage of this bill, which I desire to file with the committee for their consideration.

I would say, Mr. Chairman and gentlemen of the committee, that the people and business men of St. Joseph, Mo., under the construction which they put upon this bill, fear that it is going to result in confusion and trouble in their business, especially under contracts with the Government of the United States. In the line of business in which I am engaged I expect that we will be very shortly called upon to submit figures to the Government on cut-stone work for an addition to the United States post-office building. In that connection I desire to state that the stonecutters in my employ have only been working eight hours a day since 1878. The mechanics, mill men, and laborers work ten hours. It is absolutely necessary to have them there an hour in the morning before the stonecutters go to work and an hour in the evening after the stonecutters stop, for the purpose of cleaning out the mill and cleaning out the stonecutters' shop. If this bill becomes a law, it will be necessary to limit the laborers to a workday of eight hours.

The CHAIRMAN. Under the act of 1892 all work on public buildings is required to be done under an eight-hour day.

Mr. ABERCROMBIE. Yes, sir; I understand that.

The CHAIRMAN. And you now apprehend that work will be demanded upon a public building?

Mr. ABERCROMBIE. Yes. A little further on in the argument I will show you that there are certain things which enter into the completion of that contract, which are specified by the Supervising Architect, which we have to obtain from the quarries and over which we have no control. As we construe this bill, it will affect the man who uses the material upon which there is expended ten hours of labor. In the event that we have to figure on this contract we would have to eliminate the ten hours of work for our laborers, put them on an eight-hour basis, and pay them for ten hours' work. This would necessarily add to the cost of that building.

The CHAIRMAN. I thought that all stonecutters everywhere were working on the eight-hour basis?

Mr. ABERCROMBIE. No, sir; they are not.

The CHAIRMAN. Granite cutters and marble cutters are not working eight hours?

Mr. ABERCROMBIE. Granite cutters are working different hours in different places and marble cutters are working different hours in different places. The stonecutters are more universally working eight hours than any class of mechanics. When I first opened a stone yard, in 1878, the stonecutters were working ten hours a day. I went from the East to St. Joseph. My father, who was in charge of the business there, having been in the stone business all his life, had long before that come to the conclusion that eight hours' work for a stonecutter in a day was all that the physical condition of the men could stand. The average life of a stonecutter is short, especially if he is engaged in cutting sandstone. It is not so bad when he is cutting marble or limestone, because there is not the same amount of grit in those materials there is in sandstone and it is not so destructive to the lungs.

If we come to a proposition of contracting for a Government building, we may have specified for that building Bedford, Ind., limestone. In those quarries the men work ten and twelve hours a day. As we construe this bill none of the materials that enter into the completion of that contract, on which more than eight hours a day labor has been expended, can be used; and consequently the only thing we can do, in order to be safe, is either to refuse to figure on the work for the Government or else to add 20 per cent additional to the cost which we would have to pay to laboring men for doing nothing.

The CHAIRMAN. Can you not buy uncut stone from the quarry in the open market?

Mr. ABERCROMBIE. The materials that we use are generally mill blocks, and we do our own sawing. Our contracts for those mill blocks are made annually for the year. Only last week I signed a contract with the Consolidated Stone Company, of Bedford, Ind., for what we would possibly use during the coming season.

The CHAIRMAN. A man can buy uncut stone in the open market.

Mr. ABERCROMBIE. What do you mean by uncut stone?

The CHAIRMAN. I mean stone out of the quarry.

Mr. ABERCROMBIE. Just as it is quarried to go into the sawmill?

The CHAIRMAN. Yes.

Mr. ABERCROMBIE. There is no trouble about that.

The CHAIRMAN. If you can buy that in the open market, and you

want stone according to certain specifications—that is, stone of a certain kind or of a certain size—this bill would not affect it. Unlike the act of 1892, under which you are now working on public buildings, this bill excepts such matters from its operation.

Mr. ABERCROMBIE. If it does, I want to cite to you this instance: The contractor will figure on getting that work on an eight-hour basis. If he gets the work at his own place, at the location where the building is to be built, he will be put into competition with the machine man in Bedford, who will run his machinery, planers, etc., for ten hours a day or twelve hours a day, and then you will have the contractor so handicapped that he can not meet the competition.

The CHAIRMAN. Does the Indiana man sell his stone on the open market cut and fashioned?

Mr. ABERCROMBIE. Yes; at so much per cubic foot, according to the material he is running.

The CHAIRMAN. If it can be bought in the open market, it is excepted under this bill.

Mr. ABERCROMBIE. But we are under the liability of having any member of a labor union file an information against us in the United States district court, claiming that we are violating the act, simply because the stone was quarried by a quarryman who worked his men ten hours a day. We have no control over that, and we run the risk of having an action brought against us. I am arguing from the position of what would occur to our firm as we construe the bill.

We have a business firm in the city of St. Joseph who are contractors for furnishing woolen goods to the United States Government.

The CHAIRMAN. What do they furnish?

Mr. ABERCROMBIE. Blankets and woolen goods.

The CHAIRMAN. You do not think blankets and woolen goods are covered by the provisions of this bill?

Mr. ABERCROMBIE. That firm construes their goods to be covered by the provisions of this bill. If they furnish the Government certain materials at a certain time and in competition with other firms, they have to enter into a contract with the Government.

The CHAIRMAN. They furnish blankets and what other kind of goods?

Mr. ABERCROMBIE. Blankets and clothing.

The CHAIRMAN. Things which can be bought on the shelves of many stores in the United States.

Senator GIBSON. Do they furnish blankets to the Army and Navy?

Mr. ABERCROMBIE. Yes, sir; and also a great number of them to the Pullman Car Company.

Senator GIBSON. The blankets furnished to the Army and Navy are all of a specified character. They are entirely unlike the blankets you could go into a store and buy.

The CHAIRMAN. I know they are, but they are supplies furnished to the Government.

Senator GIBSON. I have never known those blankets to be purchased in the open market.

The CHAIRMAN. If blankets are sold in the open market and blankets are made according to certain specifications, they are excepted from the provisions of this bill. Army and navy blankets are made according to certain specifications and they are excepted by the language of the bill. Any supplies which may be purchased in the open

market, whether made to conform to particular specifications or not, are intended to be excepted by the very language used. You can therefore comfort these gentlemen by asking them to read this bill. They at least will have there minds at ease.

Mr. ABERCROMBIE. The only information that we have been able to get in St. Joseph is what we have gotten from the daily press. I have never seen a copy of the bill in the city of St. Joseph.

The CHAIRMAN. The trouble with many of the gentlemen who appear here is that they have never read the bill, or. if they have, they have read it with some one standing by to interpret it in the most disturbing manner.

Mr. ABERCROMBIE. I think they are justified in that, on account of the conditions of labor. I think every employer has reason to view with alarm and to put upon the bill the very worst construction they can put upon it, by reason of the source from which it comes. If the bill does pass, which I hope it will not, the technical construction will have to be placed on it by the courts.

In connection with the proposed contract that we may enter into for the construction of the building at St. Joseph, we will have to enter into a subcontract for furnishing brick. The general contractor claims and feels that he will be compelled, by the terms of his contract, to purchase bricks from yards which are only working eight hours a day. Of course that will not be true if the bill is to be construed as you indicate and if every avenue is left open to defeat the objects and purposes of it. We regard the ultimate purpose of the bill to be the passage by the Government of a national bill for an eight-hour day throughout the entire country, and then getting the State legislatures to take the matter up and make it a law pertaining to all kinds of business. Of course, if the American people can by legislation enact a law and say that every man shall live on eight hours' work daily, it will be only a question of time until that is reduced to six hours, and four hours, and finally there will be a law that none of us will have to work at all. From my observation of the men and affairs generally, that would seem to be an entirely satisfactory condition to everyone.

Another point in regard to the matter is this: As I understand it, this eight-hour proposition emanates from the leaders of the labor unions.

The CHAIRMAN. How many hours a day do the men work in the manufacture of bricks in St. Joseph?

Mr. ABERCROMBIE. Generally from ten to twelve hours a day. Different men in different lines of work have different hours.

The CHAIRMAN. None work less than ten hours a day?

Mr. ABERCROMBIE. I do not know of a brickyard around St. Joseph, and it is quite a manufacturing place, that works less than ten hours a day. In our line of business we are frequently called upon to furnish cut-stone work at the small towns located outside of the city in which there are no labor unions. My experience has been that when I send my stonecutters, laborers, and setters to those towns, although they are all good union men, they universally demand, before they go, that they be allowed to work ten hours a day. They are away from home and they want to make all the time they can. That prompts me to believe that they are not particular about working only eight hours a day. In the State of Missouri, at

the town of Marshall, there was a building being erected and union bricklayers went from St. Joseph down there to work on that building. They would not be found doing more than eight hours a day work in St. Joseph, but they worked ten hours on this building. The same is true of the carpenters. So I do not think there is any very great hue and cry on the part of the average mechanic for a law that requires him to work only eight hours a day.

I do not think there is any mechanic who is self-sacrificing enough to cut off two hours of his time in order that it may be generally spread out, so that the other fellow, who is not doing anything, can get the advantage of it, or in order to give employment to more men. Therefore, I do not regard the claims made by the advocates of labor, that there is a universal demand by the laborers and mechanics for an eight-hour day to be well founded. I have been met with a condition like this: We were setting the stone in a building some years ago on which the bricklayers worked ten hours a day, while our stonecutters only worked eight hours. In order to accommodate the bricklaying fraternity our stonecutters and laborers worked ten hours a day, so that the bricklayers would not be obliged to quit work. Later on the bricklayers adopted a nine-hour day, and our stonecutters had to adopt the nine-hour day because they could not work after the bricklayers quit. Later on the bricklayers adopted an eight-hour day, and that necessitated our stonecutters and laborers only working eight hours. When that point was reached we simply had to figure on paying these laborers for ten hours time. They might be working at a building close to the yard, where they could come to the yard and put in an hour in the morning and an hour after 5 o'clock, and make ten hours a day; but, if they were located at a building far away from the yard, they simply would not have time to come. Consequently, we have to figure now, where a laborer is required to set cut stone, on losing two hours a day of his time.

The CHAIRMAN. You are aware that under section 6353 of the Revised Statutes of Missouri the legal period for labor per day is eight hours?

Mr. ABERCROMBIE. Yes; I am aware of that fact and I am also aware that there is no one in the State of Missouri foolish enough to try to enforce it.

Senator NEWLANDS. That law is not enforced?

Mr. ABERCROMBIE. No; it is not.

Senator NEWLANDS. Has the question ever been decided in the courts?

Mr. ABERCROMBIE. Not that I know of.

Senator NEWLANDS. The labor unions do not attempt its enforcement there?

Mr. ABERCROMBIE. No, sir.

Senator NEWLANDS. How long has it been on the statute books?

Mr. ABERCROMBIE. I do not know.

The CHAIRMAN. I do not want to mislead Senator Newlands or Mr. Abercrombie. This old statute in Missouri is not like the statutes of the various States, copies of which I have here, which contain a prohibition against working more than eight hours. That is a general eight-hour law. The statutes in many States of the Union do not allow the contractor or subcontractor for public work to require or permit a workman to work more than eight hours per day. I have here a collection of these State laws, made by the Bureau of Labor, which are of that character. Later I will put them in this record.

Senator NEWLANDS. We have in Nevada a statute which absolutely prohibits working in the mines and smelters more than eight hours a day.

Mr. ABERCROMBIE. We have in Missouri a law passed by the State legislature about four years ago which prohibits more than eight hours a day work in the mines.

Senator NEWLANDS. Is that law enforced?

Mr. ABERCROMBIE. It is enforced, because we have in Missouri a department that has the supervision and inspection of the mines.

Senator NEWLANDS. Do you think it is desirable in the present, or in the near future, to arrive at a condition of things in which eight hours shall constitute a day's labor?

Mr. ABERCROMBIE. Do you mean desirable by the general public or desirable for the best interests and welfare of the entire country?

Senator NEWLANDS. For the best interests of the entire country?

Mr. ABERCROMBIE. I think not.

Senator NEWLANDS. What would you think a reasonable limit?

Mr. ABERCROMBIE. I think a reasonable limit would be a time that might be agreed upon by the man who has labor to sell and the man who is purchasing it.

Senator NEWLANDS. Then you would leave it entirely to contract between the parties?

Mr. ABERCROMBIE. Yes; I believe I would.

Mr. HAYDEN. Would you place any ironclad limit upon it?

Mr. ABERCROMBIE. I would not. I would not believe in putting any restriction on a citizen as to a right which he is guaranteed by the Constitution of this country.

Senator NEWLANDS. In that view you regard the law passed in Missouri requiring a limitation to eight hours of labor in the mines as unwise, do you?

Mr. ABERCROMBIE. I do not know that I do regard that as unwise. In labor in the mines in Missouri there is to be taken into consideration the question of safety and the question of health. I regard that as being entirely different from a great many other occupations in which labor is engaged, just as I regard the cutting of stone as different from other trades. I think a man can do a day's work at stone cutting in eight hours, while I do not think a man who is a carpenter or who is engaged in other occupations will exert the same physical force in his occupation in eight hours as a stonecutter will in eight hours.

Senator NEWLANDS. Do you believe in a limitation as to stonecutters?

Mr. ABERCROMBIE. I believe in a limitation, to be agreed upon between the proprietor and the employees.

Senator NEWLANDS. I am talking about a limitation imposed by law.

Mr. ABERCROMBIE. No, sir. The limitation that is imposed in St. Joseph is a voluntary limitation imposed by the employer.

Senator NEWLANDS. That is not a limitation in any sense.

The CHAIRMAN. From your experience in the branch of work with which you are best acquainted you approve of eight hours for a day's work?

Mr. ABERCROMBIE. Yes, sir; in that line.

Senator NEWLANDS. But you do not believe in making it certain by law.

Mr. ABERCROMBIE. I will answer your question in a moment. I

want you to bear in mind that the other employees in the establishment work ten hours—the mill men and the laboring men.

The CHAIRMAN. How many men do you employ?

Mr. ABERCROMBIE. It depends entirely on the amount of work being done there, and the season of the year. In the winter time we do not do anything with stone work for the simple reason that the frost and cold prohibits work at any reasonable figure.

The CHAIRMAN. What is the maximum number that you employ?

Mr. ABERCROMBIE. In the neighborhood of about 30 men.

The CHAIRMAN. And they are employed eight hours a day?

Mr. ABERCROMBIE. Yes; the stone cutters are.

The CHAIRMAN. And that has continued, in your business, for many years?

Mr. ABERCROMBIE. Yes; but I must say that mechanical help is getting worse every year, and it is harder to obtain it. We are being compelled to resort to machine work to a greater extent than ever. In our line of business it seems impossible to get the average American boy to take kindly to an apprenticeship in the trade. In my own experience we have possibly had 15 apprentices who have learned their trade and served their time. Out of those 15 apprentices I don't believe there are to-day three who are following that line of business. They have quit it and gone into different occupations. Some of them have gone into the police department, some into the fire department, and some into other branches. They have gone into occupations that are easier, physically, than that of a stone cutter. In our line of business I believe we will have to depend very largely on foreign importations of Scotchmen, Englishmen, and Irishmen, and some Germans.

The CHAIRMAN. Is there anything further you desire to say about this matter?

Mr. ABERCROMBIE. No, sir.

ARGUMENT OF HAROLD LOMAS.

The CHAIRMAN. Will you give your name?

Mr. LOMAS. My name is Harold Lomas.

The CHAIRMAN. Whom do you represent?

Mr. LOMAS. I am representing the Crocker-Wheeler Company, electrical engineers and manufacturers, of Ampere, N. J. My business here, chiefly, is to get Government contracts, so I am very much interested in this bill.

In manufacturing motors and dynamos, which is almost our entire business, it is practically impossible to run a part of our shop on an eight-hour basis and a part on a nine-hour basis. You can not segregate the different portions of the work. For instance, you can not say that you will manufacture a 10-horsepower motor in one part of your shop and a 15-horsepower motor in another.

The CHAIRMAN. Do you make 10-horsepower and 15-horsepower motors for sale to people generally?

Mr. LOMAS. Yes.

The CHAIRMAN. They are sold in the open market?

Mr. LOMAS. Yes; our standard motors are sold in the open market.

The CHAIRMAN. Then if a man wants a motor made according to certain specifications you would make it according to those specifications?

Mr. LOMAS. Yes.

The CHAIRMAN. You are aware that all of those things are excepted in this bill?

Mr. LOMAS. I do not consider that it is. For instance, the Government always calls for special material, and we never make those motors for anybody except the Government.

The CHAIRMAN. But you make them according to certain specifications?

Mr. LOMAS. Yes.

The CHAIRMAN. Then you make motors to be sold in the open market and when the Government wants a particular kind of a motor you make that according to specifications?

Mr. LOMAS. We make standard motors to be sold in the open market, in the sense of being sold to ordinary purchasers of electrical apparatus.

The CHAIRMAN. You will observe in section 2, line 7, of this bill there are many things excepted, to which this bill does not apply, and among those exceptions are "such materials or articles as may usually be bought in the open market, whether made to conform to particular specifications or not."

Mr. LOMAS. But you see that Government motors and dynamos are not made for sale to anybody else except the Government, and they are not for sale in the open market.

The CHAIRMAN. But you make motors for sale in the open market, and when the Government wants them made according to particular specifications you make them according to those specifications.

Mr. LOMAS. It all depends on what construction you put upon the term "open market." Motors and dynamos are not sold in any way like ordinary articles in a retail business. They are not sold at all as you buy ordinary retail supplies. That is where the question as to what is the proper construction of the term "open market" comes in. You can not walk into a shop and buy motors and dynamos.

The CHAIRMAN. They are not sold around in the market places, but they are sold and vended like other products manufactured. When you make them according to specifications you make them to conform to the wishes of a certain purchaser, and if that happens to be the Government the motor or dynamo is still a matter which you make for general sale.

Mr. LOMAS. No; we do not make motors and dynamos for the Government for general sale.

The CHAIRMAN. You make the motors for general sale, and when you make a particular kind of motor for a particular purchaser it is still exempt under this bill. I have no doubt in the world about that.

Mr. LOMAS. I can not see that it is. I have looked at that very closely.

I was saying that it is impossible to segregate the work in your shop, in manufacturing motors and dynamos, because they are made up of a great number of parts, all of which are brought to completion in different parts of your shop. In addition, it is quite impossible to distinguish parts that would be made for the Government and parts that would be made upon an ordinary commercial order. Take, for illustration, the matter of armature disks. About 100 disks would be cut for one armature. A man who is punching those disks will probably punch 1,000 at a time, and he does not know whether 100 of those

disks are going to be used on Government work and the other 900 on ordinary commercial work or not. There is no possibility of distinguishing it. In other words, you can not manufacture motors and dynamos partly on an eight-hour basis and partly on a ten-hour basis.

There is another view of this subject. We, as manufacturers, have to purchase quite a good deal of our material. For instance, we purchase copper wire, commutator segments, castings, and things of that kind. The castings that we purchase are made from our own patterns, and nobody else can buy a casting made from those patterns. Nobody else can buy a commutator segment made from our drawings. Nobody else can buy the kind of mica which we use, which is made according to our own specification. It would seem to me that there are quite a number of things which we have to purchase that are not open-market purchases, and therefore the enactment of this bill would not only affect us, but it would affect our subcontractors. You can easily imagine a case where you send an order to a foundry to furnish you three castings. You have to instruct him that he can make two of them on a ten-hour basis and one of them on an eight-hour basis.

The CHAIRMAN. What would those castings be?

Mr. LOMAS. They would be parts of a machine made from our patterns, which could not be purchased from anybody else, and therefore would not be an open-market purchase.

The CHAIRMAN. Do you make those from your patterns and vend them to other people?

Mr. LOMAS. We buy them made from our patterns and then they form a part of the machine, and the machine is sold as a whole.

Senator NEWLANDS. Did you say they were made according to your patent or pattern?

Mr. LOMAS. They are made from our patterns; from the ordinary patterns used in a foundry. We do not have a foundry of our own, and we get the castings made on the outside. They are made from our drawings and our patterns. I hold that a purchase of that kind is not an open market purchase. The frame castings which we buy from the foundries could not be sold to anybody else. The frames of the machines are made from our drawings and our designs. In some cases they are patented, and they could not be sold to anybody else.

The CHAIRMAN. But the like are made and sold?

Mr. LOMAS. Nothing like what we buy.

The CHAIRMAN. Do not other people who make similar motors and dynamos have similar patterns?

Mr. LOMAS. They are similar, but not the same, and they would not fit our machines. They could not be used by us and ours could not be used by them.

The CHAIRMAN. I mean that like castings are made to fit other machines?

Mr. LOMAS. Yes.

Senator NEWLANDS. Then your idea is that if you should make a subcontract on Government work with anybody to furnish a certain article according to a pattern supplied by yourself, you would be compelled then to see that the people who worked on that casting did not work more than eight hours a day?

Mr. LOMAS. Yes; I think that is very clear.

Senator NEWLANDS. You could cover that by the contract with the subcontractor providing that no one employed on it should work more than eight hours a day, could you not?

Mr. LOMAS. For instance, suppose you send him an order for three castings to be made from one pattern, and that two would be required for ordinary commercial work and one for Government work. Of course, he would make all three at the same time, and he could not distinguish the one that was made for Government work from the other two that were made for commercial work.

Senator NEWLANDS. If you sent him one pattern from which to make three articles, two for sale in the general market and one for sale to the Government, would not that bring the article within the exception of section 2, and would it not be an article bought in the open market?

Mr. LOMAS. No; I hold that it would not, because we are the only people who could buy it.

The CHAIRMAN. The language of the bill applies not only to the thing which is purchased in the open market, but to the like, whether made to conform to particular specifications or not. This is an open-market article made to conform to particular specifications or patterns.

Mr. LOMAS. It is not an open-market article.

Senator NEWLANDS. It is not an open-market article so far as your subcontractor is concerned, because he makes it only for you; but after you get it it is an open-market article?

Mr. LOMAS. No, sir; I do not think it is then.

Senator NEWLANDS. Suppose you got three castings made upon the same pattern, two of which you propose to sell in the general market and one of which you propose to sell to the Government. When those articles come into your hands they can be regarded as articles for sale in the open market, can they not?

Mr. LOMAS. I would not say so, because they have no value whatever until they are made up into machines, and they would not be on the market for any purpose whatever.

Senator NEWLANDS. But later on they would constitute a part of a machine which would be on the market?

Mr. LOMAS. Yes.

Senator NEWLANDS. And it would be on the general market?

Mr. LOMAS. Yes; it might be.

Senator NEWLANDS. Do you object to the wisdom and propriety of this movement that is intended to curtail and reduce the hours of labor in the United States wherever practicable and in every occupation where it is practicable to eight hours a day? Do you regard that as an unwise and impolitic movement?

Mr. LOMAS. I consider that it is quite impracticable to bring it about in the present form.

Senator NEWLANDS. Will you give us some suggestion as to the form by which you would accomplish that purpose, assuming that it is desirable?

Mr. LOMAS. I would simply have a universal eight-hour law or noth ing at all.

Senator NEWLANDS. But the Government of the United States can not provide that. It would have to be done by each State. We are here engaged in an effort, so far as the influence of the United States Government extends and in occupations over which it has any control through contract relations, to stipulate that the hours of labor shall be limited to eight in any one day, with a view of helping along the general movement throughout the United States for the limitation of the hours of

labor to eight hours a day. What method would you suggest as a substitute for this, which the United States Government could pursue in order to accomplish that purpose without causing the hardships to which you refer?

Mr. LOMAS. If each State has the power to bring in its own eight-hour bill, the only thing the Government can do is to get all of those States together to agree to the universal hours of labor, whether it is eight or nine or whatever it may be.

I want to show you, however, how it would affect the manufacturers particularly of motors and dynamos. As I said before, it would be quite impossible to run a shop partly on an eight hour and partly on a nine or ten hour basis. Therefore each manufacturer would say to himself, Shall I take Government work or not? Looking at it as a strictly business proposition, he would recognize that he would have to do one thing or the other. You will find that there are quite a number of manufacturers of motors and dynamos who do no Government work. I think there is only one who has Government work to amount to more than 10 per cent of its output. There are a great number who do Government work, but there is only one which does more than 10 per cent of its total business for the Government. The Government always calls for special machinery, and special machinery is more costly to manufacture because it has to be designed. It so happens that competition is keen for Government work, so that you get but a very slightly enhanced price for special machinery.

In addition to that the payments for Government work are very slow. There is always a great deal of inspection done and very careful tests are made, which take time. The ordinary channels through which you receive payments are such that it takes at least a month longer to receive your pay than it does on ordinary business transactions. On an average it will take you about three months longer to get payment for Government work than it will for ordinary commercial work. Government work, therefore, has those two distinct drawbacks. It is special and you turn your money slowly. No manufacturer does a large proportion of such work, and therefore the manufacturers would say, as a whole: We can not take Government work at all under these conditions. The alternative of doing Government work entirely holds out no practical prospect, because the demands of the Government are very irregular as regards quantity, size, and type, all of which make cheap manufacturing impossible. Cheap manufacturing is accomplished by having a steady demand for certain sizes.

The CHAIRMAN. What are the three castings you mentioned a while ago, which you require to be made according to your own patterns?

Mr. LOMAS. I simply took three as being the number of castings to be made for three different machines. To make it definite, take a 10-horsepower motor. You would have to have a casting for your frame, which would be in two pieces. Some manufacturers make it in one. Then you have a casting for your pole pieces, and again a casting for your pole shoe, and then there would be a casting in connection with the armature.

The CHAIRMAN. In the present state of the art the like are made and supplied to various manufacturers of motors and dynamos—not precisely similar, but of a like kind?

Mr. LOMAS. Yes; similar, but not the same.

The CHAIRMAN. So that there is quite a market for those castings—not necessarily of your pattern, but the like?

Mr. LOMAS. Yes; but it is not an open-market purchase, because each manufacturer is the only customer for a certain casting.

The CHAIRMAN. Then those castings are really supplies for motors and dynamos which you make?

Mr. LOMAS. Yes; they are supplies for each manufacturer.

The CHAIRMAN. And as supplies they are sold by those who make those supplies to the makers of dynamos and motors?

Mr. LOMAS. I do not think the term "supply" is a correct one in regard to a casting.

The CHAIRMAN. A supply is "the amount of exchangeable commodity available for meeting a demand." That is the economic definition of a supply?

Mr. LOMAS. Yes.

The CHAIRMAN. If this casting is an exchangeable commodity available in some molding shop for meeting the demand, then it is, in the economic sense, a supply?

Mr. LOMAS. It is only an exchangeable commodity in a very restricted sense. It has one purchaser and that is all.

The CHAIRMAN. Only one?

Mr. LOMAS. Yes.

The CHAIRMAN. Then, as many motor makers as there are make the total of those who want that commodity available for meeting their demands?

Mr. LOMAS. Yes; but no two use the same.

The CHAIRMAN. They are not exactly the same. The only difference is that they are made to conform to particular specifications.

Mr. LOMAS. I would say they were made to conform to particular dimensions.

The CHAIRMAN. That is a specification, in one degree.

Mr. LOMAS. Yes; that is a specification in one degree.

The CHAIRMAN. So that really these supplies, which are the amount of exchangeable commodities available for meeting a demand, are supplies which are excepted in this bill, whether manufactured to conform to particular specifications or not. I apprehend that this bill intends to except just that sort of a commodity.

Mr. LOMAS. That is just what the manufacturers want to know.

The CHAIRMAN. From your experience, can you suggest any words that would carry out the purpose of this exception? Those of us who favor the eight-hour day do not want to stop the industries of the country. We are desirous of advancing the time when eight hours will be the standard for a day's work, but we do not desire to meddle heedlessly or harmfully with the industries of the country, nor to be uneconomic, unwise, or injurious. We do desire, on a broad plane—and I speak now for myself and those who think with me—to advance the time when, in the Government service, the eight-hour day shall be universal; and we do expect that such a standard will be persuasive upon public opinion and upon the people of the country and will tend to have them advance to the same standard.

We are aware that to do it in a hurtful, radical fashion would injure our purpose to advance the eight-hour day, and therefore a large class of exceptions has been made so that the industries of the country in private employment may not be unduly alarmed and will not be finally injured thereby. An industrious effort appears to have been made to misconstrue this bill, to disturb a great many good people. The bill does not seem to be taken to mean what it was intended to mean and

what it really does mean; but is taken to mean something else and to be a bugaboo which will destroy the industries of the country. Can you suggest any other words which will except these manufactured products?

Mr. LOMAS. I can suggest what would make it clear to our own industry. This, however, is only in so far as it affects our subcontractors. It does not come down to the matter as to how it affects us. It is absolutely impossible to conduct a shop for manufacturing motors and dynamos partly on an eight-hour basis and partly on a ten-hour basis. It could not be done.

Senator NEWLANDS. Then you think this bill would be persuasive in inducing you to adopt an eight-hour system throughout your manufacturing establishment?

Mr. LOMAS. Of course we would not do it unless the other manufacturers of dynamos and motors did it.

Senator NEWLANDS. Do you think that your competitors who are not engaged in Government work and who maintain the ten-hour day would have the advantage of you?

Mr. LOMAS. Certainly; there is no question about that.

Senator NEWLANDS. What is your idea as to the amount of work a man would do in an eight-hour day as compared with what he does in a ten-hour day? Would he not do pretty nearly as much work?

Mr. LOMAS. No; I think the output would be according to the time he worked. Factories to-day—that is, up-to-date factories—are very different from what they were in former times. They are light and clean. Everything is done to make it easy for the workmen. I believe the amount a workman can turn out is practically in proportion to the time he works—that is, he will turn out 25 per cent more in ten hours than he will in eight hours. The men work just as hard at the end of their time as they do in the early part of their time.

You gentlemen may think that the manufacturers of motors and dynamos are not important to the Government. But it so happens that they are exceedingly important. Take a battle ship like the *Connecticut*, now building in the New York Navy-Yard, or the *Louisiana*, or the *Virginia*, and there is a hundred thousand dollars worth of motors and dynamos in each of those ships. Those motors and dynamos represent the very vitals of the ship. Everything is done by them. The gun turrets are turned, the guns are trained, sighted, and loaded, and the ventilating is done by motors. This has been carried to such an extent that if the electrical machinery on board a battle ship breaks a ship worth $5,000,000 and upon which the fate of a battle may depend is actually crippled. For this reason it is absolutely essential that the Government should have the very best that can be bought. If under this law the manufacturers would not take Government contracts, the Government would have to buy a shop. They could not buy a shop which would fulfill their demands, and they would have to build their own shop, which, of course, would take a long time; and when they had it built they would not have the spur of competition to keep them up to the mark.

The CHAIRMAN. They could not build a shop that would give them all their supplies?

Mr. LOMAS. Yes, they could, but it would take a long time.

The CHAIRMAN. Therefore they go into the market and buy from other producers supplies for their special purposes?

Mr. LOMAS. Yes.

The CHAIRMAN. And those supplies are all excepted from this bill?

Mr. LOMAS. Motors and dynamos are not excepted.

The CHAIRMAN. I say that your motors and dynamos are supplies.

Mr. LOMAS. Even if they are you do not get past the difficulty that the manufacturers can not run their shops partly on a ten-hour basis and partly on an eight-hour basis.

The CHAIRMAN. They can be run on any basis, if they are supplies that are usually bought in the open market, whether made to conform to particular specifications and plans or not.

Mr. LOMAS. Then they should be distinctly told that such is the case.

The CHAIRMAN. Can you make a suggestion as to how to state it more definitely and distinctly? Can you suggest any way in which it can be made more clear?

Mr. LOMAS. Let me give you an instance: Only last week the Government bought motor dynamos. Those dynamos had never been made by anybody before, and they are of no value whatever upon the open market.

The CHAIRMAN. Have you read this second section of the bill?

Mr. LOMAS. Yes.

The CHAIRMAN. Will you state wherein your understanding of the second section differs from mine?

The WITNESS. I presume you refer to the third line of the second section, which says: "Such materials or articles as may usually be bought on the open market." I distinctly stated that motors and dynamos made for the Government are not articles that you can buy in the open market.

The CHAIRMAN. Read the following words: "whether made to conform to particular specifications or not."

Mr. LOMAS. If they are made for the Government you can not buy them in the open market. They have no value and you could not sell them. They never would be offered for sale.

The CHAIRMAN. If I telegraphed to your establishment and wanted to buy a 10-horsepower motor, I can probably get one?

Mr. LOMAS. Yes.

The CHAIRMAN. And anybody else can get one?

Mr. LOMAS. Yes; after proper investigation.

The CHAIRMAN. Investigation as to his reliability, of course?

Mr. LOMAS. Yes.

The CHAIRMAN. I would take that to be a commodity which is in the open market.

Mr. LOMAS. But if the Government should telegraph up to buy one we would immediately telegraph back to the Department to know what the specifications were.

The CHAIRMAN. In the bill we then add the words, "whether made to conform to particular specifications or not."

Mr. LOMAS. Yes.

The CHAIRMAN. You make them to conform to the Government specifications?

Mr. LOMAS. If you were to telegraph for a motor to meet the Government specifications it would not be sold to you unless you bought it on behalf of the Government. It is not an open-market purchase in that way at all.

Mr. HAYDEN. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Yes, sir.

Mr. HAYDEN. You indicated that if this bill should become a law your concern would not continue to manufacture for the Government unless all other similar concerns went on the eight-hour basis; in other words, you could not compete against longer hours?

Mr. LOMAS. Yes.

Mr. HAYDEN. And that you would cease manufacturing?

Mr. LOMAS. Yes; we would cease manufacturing for the Government.

Mr. HAYDEN. What do you believe would be the action of your subcontractors, even if you should not stop manufacturing for the Government? Do you believe that they would bind themselves to manufacture on the eight-hour basis, for the small amount of work you would subcontract for?

Mr. LOMAS. I do not think they could bind themselves to do that any more than we could.

Mr. HAYDEN. You do not think they would?

Mr. LOMAS. I do not think they would, because they could not.

Mr. HAYDEN. Your interpretation of this bill is that it is a radical measure?

The CHAIRMAN. You may ask questions for information; but you need not put arguments into the questions.

Mr. LOMAS. I consider it radical in this way, that it would upset our business to the greatest possible extent, and it would also upset the business of other manufacturers.

Mr. HAYDEN. Are many of your motors and dynamos made for the Government?

Mr. LOMAS. Yes.

Mr. HAYDEN. What is the nature of their use on board ship?

Mr. LOMAS. On board ship they are used for all the operations for which power is required. The gun turrets are turned, the guns are trained, sighted, and loaded, and the boat cranes and deck winches are operated by motors, and the dynamos supply the current to those motors.

Mr. HAYDEN. Are the steering gears operated in that way?

Mr. LOMAS. The steering gear is usually operated by steam.

Mr. HAYDEN. And you say that these motors and dynamos are made specially for these operations?

Mr. LOMAS. The motors for use on a battle ship are completely special, and are never built for any other purpose.

ARGUMENT OF FREDERICK B. GORDON, OF COLUMBUS, GA.

The CHAIRMAN. Mr. Gordon, will you state your full name and whom you represent.

Mr. GORDON. My name is Frederick B. Gordon. I am a cotton manufacturer, and am at present the official head of the Georgia Industrial Association, which is an organization composed of the cotton mills of Georgia. Our people in Georgia are very apprehensive as to the tendency of this national eight-hour bill, and at their request I am here.

My purpose is to address you briefly in opposition to the passage of the bill known as the "National eight-hour bill." Officially I speak as the president of the Georgia Industrial Association, an organization composed of the cotton mills of Georgia, about 100 of which belong

to our association, representing a capital of $30,000,000. Personally I wish to speak as a manufacturer deeply interested in the many problems which spring from the question of capital versus labor, and as one entirely friendly to labor's best interests.

In a general way I wish to address you on the question from a climatic standpoint, and I will try to briefly show wherein the passage of this bill would be a great calamity to both the agricultural and industrial South. I may be pardoned in this connection if I state that although a native of Massachusetts, a residence of over twenty years in the South has made me familiar with her social and industrial conditions.

As I understand the bill, Mr. Chairman, it seeks to limit to an eight-hour period the daily service of employees engaged upon Government contracts. Now, I wish to indulge in no exaggerations nor to create any bugbears, but it is the opinion of the members of our association and of all thinking employers with whom I have talked that once the Government puts the seal of its approval upon an eight-hour day for one class of work the next step on the part of the labor agitators will be to ask for a national law which will imperil the individual rights of every workman in the United States. Presuming this danger did not exist, why pass the law at all? The average working-day the country over is ten hours. Take off two hours and we have a shorter day by 20 per cent, although the same wages will doubtless be wanted as for the longer day. Now, in all ordinary work, material represents about one half the cost and labor the other half, so we thus have on Government work a direct increase of 10 per cent in the cost. Can members of Congress consistently pass a measure which will inevitably add 10 per cent to every bid put in for Government supplies, as against the same work if done by private enterprise? Mr. Chairman, I understand that your committee has heard at length from many sections of the country in opposition to this bill, but I ask the attention of the committee to a few points I wish to make as to the effect of an eight-hour day for labor on the South; as we believe same will be urged if this bill becomes a law.

What we need in the South is laws to make people work and not laws to make them idlers. The entire world looks to the South for the bulk of its cotton. Twelve million bales will be required to meet the demand this coming year, and the South is going to try to produce it. The greatest obstacle in the way is the lack of labor. The average working-day the year round with southern planters is twelve hours, and yet through the provisions of this bill, which is unquestionably the entering wedge for others, a subtropical climate is threatened with an eight-hour day for laborers. One-half of the cotton crop is now grown by white labor, and I know of no self-respecting owner of a farm in the South who himself works but who would feel ashamed if the rising sun did not find him between the plow handles and if he quit work before it sank in the west; and yet on an eight-hour basis the man he employs would start to work about 8 a. m. and drop out about 4 p. m.

One other phase of this question from a southern standpoint. Plantation work and cotton-mill work is largely piecework. Cotton is picked by the hundredweight and woven and paid for by the piece, and those who do that work are voluntarily anxious to get in as much work in one day as possible. To illustrate this question of piecework:

In a cotton mill with which I am familiar there are 800 looms. These looms are of the latest automatic design and one weaver can operate 20 as against 4 of the old style. These weavers are paid by the piece and are ambitious to work even longer than the required day that they may earn more. How does an eight-hour day help these weavers? It would prove a premium on laziness and a discount on thrift. Is the Government going to cut off the right of these weavers to work as long as they desire for the support of their wives and children? The far-reaching schemes of these irresponsible labor leaders should, Mr. Chairman, receive the closest scrutiny of your committee.

Let this bill pass and it will mean eight hours for all labor; that secured, they will want seven, and in the end the God-ordained hewers of wood and drawers of water will hardly have time to split the wood or go to the well. The pampered plumber of Washington may want an eight-hour day, but the hungry cotton picker of the South does not. The former measures his work by the sixty minutes; the latter by the hundred pounds.

In my opinion 75 per cent of the laborers of the South and West would vote against this measure if given an opportunity. If such extreme legislation is enacted, labor itself will rise in its might and dethrone its so-called leaders.

When Georgia wants shorter working hours, public sentiment will demand it and her legislature will enact a law to meet its requirements. Meanwhile the business men, manufacturers, and farmers of Georgia appeal to Congress to not jeopardize her industrial progress with any such legislation as the bill before your honorable committee. No one in the South wants a dwarfed labor day. No one in the South even talks about it except the few scattered paid emissaries of the labor federation. Honest laborers do not want it, for they know that good wages can only come when capital is profitably employed. They do not want to kill the goose that lays the golden egg. Thus the cotton manufacturers of Georgia wish to go on record as unalterably opposed to any national legislation touching the hours of labor in their State.

We are not here to make war upon labor unions. We recognize the right of labor to organize, and under wise leadership good can come of the union. We do make war, however, and expect to oppose with all our energies mischievious and pernicious class legislation, originating with labor leaders and aimed at the well-being of legitimate industrial enterprise, and legislation which we believe at the same time is not for the best interests of those it is supposed to benefit. No section of our common country is now progressing as rapidly as the South.

Capital is pouring in for the development of her vast natural resources, and we want no disturbing legislation. Our conditions are entirely different from those of some of the older and more thickly settled States. We want laws to suit these conditions, and we ask our representatives in Congress and we ask this committee to see to it that the precedent of an eight-hour labor day is not brought about through a favorable report upon this bill or its enactment into a law by Congress.

The CHAIRMAN. You frankly stated that you appear here to oppose the tendency of this legislation.

Mr. GORDON. Yes, sir.

The CHAIRMAN. You do not have any apprehension that the products

of any of the mills represented by your association are affected directly by this bill?

Mr. GORDON. I have a very grave apprehension of it, Mr. Chairman, because members of our association are doing Government work.

The CHAIRMAN. What do they supply to the Government?

Mr. GORDON. They supply cotton duck and material of that sort.

The CHAIRMAN. They furnish supplies that are bought in the open market?

Mr. GORDON. There are two gentlemen here with me who are now before the House Committee and who are engaged in that line of business. I would be glad if they could be given an opportunity of explaining that matter for themselves.

The CHAIRMAN. What they make are articles and materials that are bought in the open market, and are supplied to the Government.

Mr. GORDON. That is true; but if the Government should let a contract for that kind of cloth the contractor could only operate his mills on the eight-hour basis, and that would immediately throw them out of competition with others.

The CHAIRMAN. But you have not observed the second section of this bill, which excepts all goods usually bought in the open market and all supplies for the Government, whether made to conform to particular specifications or not. Manifestly everything produced in a cotton mill is excepted from the operation of this bill.

Mr. GORDON. There are very few mills that make goods of this kind, so that the Government would necessarily have to go to those mills to obtain it.

Mr. CROUNSE. Goods of that class are not ordinarily bought in the open market.

The CHAIRMAN. The second section of this act provides:

> That nothing in this act shall apply to contracts for transportation by land or water, or for the transmission of intelligence, or for such materials or articles as may usually be bought in open market, whether made to conform to particular specifications or not, or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not.

That provision of the bill is carefully prepared to except a great many manufactures and manufacturers. If you can name any one thing manufactured in a cotton mill which is not excepted I would be glad to have you name it.

Mr. GORDON. Mr. Calloway, who is here from Georgia, is making an exceptionally heavy duck for the Government, which is not made anywhere else. I think he could answer your question more intelligently than I can. I understand the general drift of your point.

Senator NEWLANDS. As I understand it, you are simply protesting against the tendency of this legislation rather than on account of its immediate effect upon your organization?

Mr. GORDON. We believe that the passage of this bill, brought before Congress as it has been and from the source from which it originates, would inevitably be an entering wedge for a national eight-hour law, which may suit Massachusetts, Minnesota, and New York, but will not suit an agricultural State like Georgia, where her natural resources are not developed and where industrial pursuits are so rapidly growing.

Senator NEWLANDS. Have you any law in your State regulating, limiting, or restraining in any way the cotton manufacturers as to the

employment of child labor, as to the hours of labor, as to the sanitation of factories, etc.?

Mr. GORDON. The State law in regard to the hours of labor provides for sixty-six hours a week, an average of eleven hours a day. That is divided up in order to get a short Saturday, and twenty minutes a day is added to the other five days, so that they work eleven hours and twenty minutes every day except Saturday.

Senator NEWLANDS. Is there any other legislation in regard to the matter?

Mr. GORDON. There is no other special legislation.

Senator NEWLANDS. You recently defeated in that State a bill relating to child labor.

Mr. GORDON. That bill was defeated in the State, because the cotton manufacturers' association which I represent had voluntarily carried out the provisions of that bill.

Senator NEWLANDS. Without legislation on the subject?

Mr. GORDON. Without legislation.

Senator NEWLANDS. Then why should you object to legislation in regard to it? Is it because of its tendency to put this matter under the control of the law?

Mr. GORDON. Yes, sir. The manufacturers of cotton goods in Massachusetts and Rhode Island are so severely hampered by laws applying strictly to the cotton mills, which is purely class legislation, that those of us in the South who are familiar with the operations of those laws are going to use every effort to be freed from legislation of that kind.

Senator NEWLANDS. It is the complaint of manufacturers of cotton goods in Massachusetts that manufacturers in Georgia can manufacture upon more favorable terms than they can in Massachusetts; that they are not subject to the same expenditures in regard to sanitation; that they are not subject to the same limitations in regard to child labor and the hours of labor. For that reason is it not a fact that a good deal of New England capital is going to Georgia and displacing labor that was employed in those occupations in Massachusetts?

Mr. GORDON. I can quote Mr. George Draper as saying that the best mills in the world are in the South. I can take you to our mills, of which I am president, and show you the very latest appliances for sanitation. There is no schoolhouse, court-house, or church in our State where the comfort of the inmates is more carefully provided for in regard to average temperature, the humidity of the atmosphere, the cleanliness of lavatories, or the ventilation. In the summer time we cool it by fan ventilators, and in the winter time we heat it by the same process. The factory operatives when they leave their homes on a cold day come to a warm, healthy place, and when they leave their homes on a hot day they come from a place where the mercury stands at 100° to work in a place where we keep it at 90° on the inside of the factory.

Senator NEWLANDS. What I asked was whether it is not a matter of complaint upon the part of the manufacturers of cotton in New England that the work can be conducted upon more favorable terms in Georgia than it can in New England.

Mr. GORDON. If I had time to figure it out from a technical standpoint I think I could show you that was almost entirely on account of the fact that people can live cheaper in that climate than

they can in New England. The fuel bill is not as great. The operatives can work longer without artificial illumination and can work longer without artificial heat. Everybody can live cheaper. It is the inevitable tendency of the climate that things are cheaper than they are in the North.

Senator NEWLANDS. You may have observed that there has been an attempt on the part of some people in Massachusetts to bring about the adoption of a constitutional amendment in order to equalize those conditions; that is, an amendment giving the power to the United States Government to regulate, throughout the entire country, the hours of labor, so that all of the various occupations can conduct their operations upon the same terms.

Mr. GORDON. Yes, sir; I am thoroughly familiar with the fact that that has been suggested.

Senator NEWLANDS. You are aware that such an amendment has been introduced by Mr. Lovering, of Massachusetts?

Mr. GORDON. Yes, sir.

Senator NEWLANDS. Do you not think it desirable that conditions should be equalized? Do you think that one State should have very advanced laws with regard to sanitation, child labor, the hours of labor, etc., and should suffer by reason of the enlightenment of the legislation and by reason of the freedom from such restraint of another State that has no such legislation upon the subject?

Mr. GORDON. My view in regard to that matter is that it is a subject for State control. I think that the sentiment of the State should determine what the people of the State want.

The CHAIRMAN. You are aware that the United States Government could not pass a law regulating the hours of labor generally throughout the United States?

Mr. GORDON. Yes, sir.

The CHAIRMAN. And that they can only do what is sought to be done here—pass legislation restricting the hours of labor upon contracts with the Government itself, or make a law to apply to the District of Columbia and the Territories. The Government can not regulate the hours of labor in a State, except by the force of its moral and persuasive influence.

Mr. GORDON. We think that is a ground for very serious apprehension.

Senator NEWLANDS. As I understand it, you take the position that any legislation seeking to regulate the hours of labor anywhere in this country is an economic mistake?

Mr. GORDON. No; I would not say that. I think the time has not yet come for a national eight-hour law. We may be drifting toward it.

Senator NEWLANDS. When I say "legislation," I mean State legistation as well as national.

Mr. GORDON. So far as the suggestion which, I believe, originated with Mr. Lovering is concerned, that the States should be put upon the same basis of hours of labor in the cotton mills, I think he will tell you, if you ask him the question, that the skilled labor and the nearness to market and the nearness to materials and supplies in Massachusetts offset the advantage which the South claims from being nearer the cotton fields, which is the main advantage, and the advantage of being able in that climate to hire workmen a little cheaper, because they can live cheaper.

The CHAIRMAN. What kind of labor is employed in your mills?

Mr. GORDON. White labor entirely.

The CHAIRMAN. You employ no colored labor?

Mr. GORDON. No, sir.

The CHAIRMAN. Do the mills forming your association exclude colored labor?

Mr. GORDON. They have made several attempts to test colored labor in the cotton mills; but it has not been a success. The Charleston cotton mill is a notable example. Mr. Seth Milliken, of New York, made a most faithful effort, after taking up the Charleston cotton mill, and after putting one of the best manufacturers in the South in charge of it, to employ colored help in the mills, and the attempt was a failure. The negro of the South is not, apparently, sufficiently advanced to become a part of a cotton mill. A cotton mill operative should be very much like a machine. He has got to be there all the time. The negro goes to sleep; and after he has earned a little money he wants to quit work and go off and spend it.

The CHAIRMAN. Do you employ minors in your mill?

Mr. GORDON. From 12 years of age up.

The CHAIRMAN. You employ girls of 12 years of age?

Mr. GORDON. Yes.

The CHAIRMAN. How many hours do they labor?

Mr. GORDON. Sixty-six hours a week.

The CHAIRMAN. Do you, yourself, think that is humane to the children of Georgia?

Mr. GORDON. I think it is entirely humane, under the present social conditions in the South.

The CHAIRMAN. For a girl 12 years of age to labor sixty-six hours a week?

Mr. GORDON. Yes, sir.

Senator NEWLANDS. As I understand it, you deplore the tendency toward legislation restricting the hours of labor anywhere in the United States, whether such legislation is national or State?

Mr. GORDON. I do, when you consider the source from which these bills emanate.

Senator NEWLANDS. Eliminating the question of the source from which they emanate and looking at the thing itself, what is your idea about it?

Mr. GORDON. There is a general idea all along the line that we would like to see the hours of the laboring people bettered; but there is a reasonable limit to it where labor itself is injured by forced legislation which it does not want.

Senator NEWLANDS. You would leave it entirely to contract between the employer and the employed, without the intervention of legislation?

Mr. GORDON. I think that the intervention by legislation is proper where conditions warrant it, where public sentiment demands it, and where the people interested want it, but I think there is such a thing as false sentiment and undue legislation which injures the real commercial prosperity of a section of the country.

Senator NEWLANDS. This legislation must be urged by some one. It must be urged either by the employer or by the employed. As the legislation is supposed to be for the interest of the employed you would expect them to agitate it, would you not?

Mr. GORDON. Yes; but in our State labor agitation originates entirely with the men who are paid to agitate these questions.

Senator NEWLANDS. You do not think they have the labor sentiment behind them?

Mr. GORDON. No, sir; I know they do not.

Senator NEWLANDS. Do you believe in any limitation upon the hours of labor?

Mr. GORDON. I do.

Senator NEWLANDS. Suppose the universal custom in this country was to employ men twelve hours a day, would you regard a limitation by law to eleven hours as reasonable under those conditions?

Mr. GORDON. I think any fair-minded man would answer that question in the affirmative. But I am dealing with conditions and not with theories.

Senator NEWLANDS. Would you regard ten hours a day as a fair day's labor?

Mr. GORDON. In a northern climate I should think ten hours a day would be a fair day.

Senator NEWLANDS. But not in the South?

Mr. GORDON. No; because in the South the average work day is about twelve hours the year around, and the people who work want to take advantage of it.

Senator NEWLANDS. Then as I understand you, the laboring people there do not want less hours in their day of labor?

Mr. GORDON. No, sir.

Senator NEWLANDS. That is your judgment about it?

Mr. GORDON. Yes, sir.

The CHAIRMAN. You think that a girl or boy 12 years of age should work eleven hours a day, and have no period for schooling thereafter?

Mr. GORDON. Under our agreement, children of that age must go to school a certain part of the time in the summer. In dealing with this question in the South we have to take into consideration the condition of these people before they come to the mills. There is no question, when you come to look at the poverty-stricken condition of these poor white people, living on worthless farms, that when they come to a cotton-mill settlement they are taught habits of industry and they become more civilized. The cotton mill, in that country, is a stepping-stone toward a higher civilization.

The CHAIRMAN. I have no doubt that is true, in a degree.

Mr. GORDON. It is hard to say, theoretically, where the line should be drawn. You must take into consideration the fact that in the South girls, especially, develop two or three years earlier than they do in the North. The conditions at our mill among the children between the ages of 12 and 14 are thoroughly healthy. There has been very great exaggeration coming from the same source that I have been discussing which seeks to create a sentiment against child labor, so that people lose sight of the other side of the question entirely. There is a practical common-sense side to it.

Senator NEWLANDS. You think that the system in Georgia has a certain educational effect on the children themselves?

Mr. GORDON. There is no doubt of it. President Elliott, of Harvard College, has alluded to that very thing—that the industrial training we are now introducing in the public schools throughout the South, in a measure, is carried out by the cotton mills.

The CHAIRMAN. You spoke several times about this bill being an entering wedge of which you were apprehensive. Were you aware of

the act of Congress of 1868, the act of 1872, and the act of 1892—the two first acts for an eight-hour day being signed by President Grant and the last by President Cleveland, and all in relation to an eight-hour day, prohibiting employment in Government work more than eight hours a day. Those would be four entering wedges instead of one.

Mr. GORDON. I will be very glad to accept that amendment, but this is the wedge we are particularly apprehensive about—this particular bill.

(The committee thereupon, at 12 o'clock m., adjourned until Wednesday, March 23, 1904, at 10.30 o'clock a. m.)

WASHINGTON, D. C., *March 23, 1904.*

The committee met at 10.30 o'clock a. m.

Present: Senators McComas (chairman) and Gibson.

ARGUMENT OF GEORGE F. BOYLE, OF WILKESBARRE, PA.

The CHAIRMAN. What is your name?

Mr. BOYLE. My name is George F. Boyle. I am the editor and proprietor of the Municipal Gazette at Wilkesbarre, Pa.

During thirty years past I have taken an active interest in labor organizations, and have been identified all my life with the upbuilding of labor organizations. I am a charter member of the first general assembly of the Knights of Labor. I have labored wtih the pioneers of the original labor organizations to give the laboring element in this fair country better and more complete opportunity to develop their energies and their abilities. "Education and Labor," the index on the door of this committee room, was one ofthe aims of the old labor organizations.

Those who took a leading part in formulating proper systems among men stood upon education for labor. Appearing, as I do, before the Committee on Education and Labor of this great country, although entirely unexpected, I deem it an honor. The notice to appear here came to me yesterday from the representatives of the Merchants and Manufacturers' Association of our locality, who have passed through an ordeal in the last two years of which the whole country has felt the effects—the anthracite coal strike. Our people are to-day suffering from the effects of that restriction of labor. I suppose the country at large is still suffering from the same cause to some extent.

It is because of their experience in regard to actual existing conditions that they ask a hearing for one who can represent the prevailing public sentiment of the various districts. They sent to this committee two of our principal manufacturers, Mr. Petersen and Mr. Sheppard, who are men having money invested in industries.

When I arrived here, I took up a Wilkesbarre Record, and I have it with me. I find, as one of the effects of the present condition of affairs, that two of our important industries are removing their plants from the city. The local item of the Wilkesbarre Record yesterday morning told us that the Dixon Iron Works and the Galland Company are about to remove from the city of Wilkesbarre.

The CHAIRMAN. We have now left an hour and seven minutes before the time for adjournment. You will have until five minutes after 11.

Mr. BOYLE. I will promise to conclude in ten minutes. I want, at this point, to give you an illustration of this factory of the Galland firm. They have adopted in every way, as far as men possibly could do so in the conduct of their business, the golden rule in the employment of their labor. That is to say, their employees, and every employee, from the lowest to the most skilled, could come to the firm at any time, if anything happened, and receive help. It was like a family affair. And yet since the new order of things has been established, within the last two years that firm has been menaced in their business to the extent that some one else wants to run its business and control it. The central labor union managers, men who know nothing about making a garment, and probably do not know the value of a garment, got these young girls together, told them that they were laboring under intolerable conditions, and got them to form a union. Out of 420 they got 87 of them to agree to go on a strike The firm found it out and simply closed down the mills to forestall a strike; and now yesterday's paper informs me that they are about to remove from my city.

The CHAIRMAN. What has that strike to do with this bill?

Mr. BOYLE. It is a condition brought about by the failure to legislate in the right direction. I want to leave that question where it is.

As I read the text of this bill it is a bill "limiting the hours of daily service of laborers and mechanics employed upon work done for the United States, or for any Territory, or for the District of Columbia, and for other purposes." Now, gentlemen of the committee, I consider that it is one of the purposes of this bill, judging from what has been said here both pro and con, to attempt to establish in this country a system of reducing the hours of labor and restricting the output of labor. If that be one of the other purposes of this measure, I want to say to you that I think a mistake is about to be made, and a very serious and vital mistake. The leaders of labor unions think that the less work they can do to-day the more there will be to do to-morrow. That is a mistake, because every sensible man knows, Mr. Chairman, that it is out of the product of to-day's labor that to-morrow's wages must be paid.

You can not keep labor as a commodity on storage and wait for a rise in the market, as you can with coal, iron, cotton, and other commodities. The wage-earner to-day who does not sell his labor loses that labor forever. It is a dead loss. I say to this committee that if you take a ten-hour day and reduce it to an eight-hour day you thereby reduce the value of the labor product two-tenths, and that reduction will be added to the increased cost of every commodity that is produced by labor. The wage-earner will pay the great bulk of that cost. I care nothing about your comparisons with the building of a battle ship or the running of a newspaper. I read from the proceedings of this committee arguments that have been brought forward in regard to building up our foreign manufacturers. I think that the protection of the laborer can best be accomplished by assuring every citizen of this great country that he and his employer alone shall be entitled to make the contracts under which he is to be paid. If this Government will guarantee protection in that right we will not fail in keeping up the balance of power; and as to the preeminence of our manufacturers in comparison with foreign countries there will be no danger or concern.

Again, I want to say that if the Government itself is representative, if Senators and Congressmen represent their States and their districts, if organized labor is based upon a representation, then in all justice to the masses of the people, who are really the ones vitally affected, why not take their judgment about this matter? Do you think that the intelligent mechanic desires to have his earning power reduced by two-tenths? Do you think that the mechanics, miners, wage-earners in the factories and mills, and, the greatest element of all, the men who work on the farms, want their earning power reduced? Do you think this will not affect them all? The increased cost of commodities will swallow up all the increase of wages and in time labor will rebel against its best friends who are now attempting to throw it a sop in the shape of legislation of this character. I can go back to the founders of organized labor; I can name honorable men, some of whom have gone to their graves, who have said that the worst enemy organized labor bas is the politician and the demagogue who try to teach that they can have their ills remedied by legislation.

We are not entering upon an area of probabilities. It has been well established during the past two years that what labor wants is to control all of the industries of this country. They want nothing short of that. They want to control the Government. I do not refer to organized labor as a mass, but to the element that go to make up its leadership, the men who hold positions, and can only hold those positions by keeping alive the agitation which is kept alive to-day. Those men have intimidated our legislatures and our business men; and they are in the saddle. I may be drawing this too strongly; but if you had lived in Pennsylvania during the great anthracite strike and were personally cognizant of the conditions that then and there existed you would agree with me that I am telling the truth and nothing but the truth. I feel a chill strike me when I think of the scenes that were enacted; and yet organized labor claims that its leaders were not responsible for them.

You are familiar with all the conditions in the country and it is time wasted to recount them. I tell you that we must come back to first principles. If this is a good measure, for the wage-earners of this country in the years to come, submit it to them in some form so that they can act upon it. These leaders of labor believe in the referendum and initiative principle. If they are believers in that doctrine, then send this whole Gompers' eight-hour bill back to their hands for their approval, tell them to submit it to the masses of the people, and then come to the Senate of the United States for legislation.

Gentlemen, I want to thank this committee for permitting me to have the honor of addressing them. I am 56 years of age, and I have traveled miles and miles in the early days to help organize and educate the workingmen, but as age comes on I can see the trend of this country; I can see that unless the strong arm of law and government steps in and performs its proper functions there will be two governments in America.

I thank the committee again, and will be glad if at any time I can be of service to the industrial interest of this country.

ARGUMENT OF H. E. MILES, OF RACINE, WIS.

The CHAIRMAN. You may state your full name.

Mr. MILES. My full name is H. E. Miles. I represent the Wisconsin Manufacturers' Association and the National Association of Vehicle and Implement Manufacturers.

The CHAIRMAN. We will be glad to hear you in respect to this bill.

Mr. MILES. If I can say anything that is at all worth listening to it will be because I am here to state something that is instructive and constructive and not to find fault. I speak in the interest of the laissez faire principle. I ask, in the name of the manufacturers, that we be let alone and that the will of ourselves and our employees shall not be subject to compulsion. I ask that you will not say to us that we shall do that which neither our employees nor ourselves want to do. I think, as an American citizen, that there is something of policy and good statesmanship in the suggestion. I know of large sections of the United States where 65 cents is a day's wage. I know of sections of the United States where very skilled men labor, and thank God for the opportunity, for $1 and $1.25 a day. They perform services that anyone in my part of the United States would be willing to pay more than twice that compensation for. How many hours a day do they work? How many hours a day does this 65 cents a day man work, and how many hours a day does the dollar and the dollar and a quarter a day man work? He works eleven and a half hours a day, and his babies are shaken out of bed by the town whistle at 5.30 o'clock in the morning that they may eat their little breakfast, dress themselves, and go through the darkness to the shop in order to get to work at 6.30 o'clock in the morning. Then they are given thirty minutes for lunch, and then they work until 6.30 o'clock at night.

The CHAIRMAN. Where is that place?

Mr. MILES. In North Carolina and South Carolina and, I think, in other sections of the South. I have very adequate data, if the gentlemen wish it. I have been there and have seen it. My suggestion is that if you are going to help labor that you do not favor the favored; that you do not exalt the exalted; that you do not make it easier for the man who has the easiest job on God's earth. Let us do something for the needy. I mean by that the more needy, for every living man needs something. The laborer who gets the highest wages needs something, and I need something, as we all do; so that when I say the "needy," I mean the more needy.

It will be objected right here that I am advocating that a man should work an eleven and a half hour day for 65 cents. My first thought was that it was distressing. I sympathized with the labor leaders and with those who wished for high prices and short hours. I almost wished that they could work six hours a day, although I have been always able to work from twelve to sixteen hours a day, and I hope my strength may continue so that I may never have to work less. I am one of those who believe that if I am going to get more I will have to give more. I thought it was a most unfortunate thing that children should have to work for 35 cents a day, that able-bodied, splendid men should work for 65 cents a day, and competent, skilled mechanics should work for $1 and $1.25 a day for eleven and a half hours. I thought

that you might like to legislate for them; and I have tried to study the question to find out if there was an opportunity for legislation. I decided that there was absolutely none. Why? Because for every man who worked eleven and a half hours for 65 cents there are two men standing idle, wishing to God that they could earn 65 cents a day in that town. It is a condition, and God and the surrounding circumstances in those communities are responsible for it. There are men hungry to work eleven and a half hours a day for 65 cents. I talked with many of them. If we must legislate, let us legislate for the more needy and not for those who relatively have no needs at all.

I had thought, Mr. Chairman, to speak of conditions and not of places. I beg now to add that wages such as named, which seem so low, and hours that seem so long, have prevailed at times in every one of our older States, and that every advance has been marked by, and chiefly due to, an increase in manufacturing, under a governmental policy securing to those immediately concerned entire freedom of contract and the greatest liberty for mutual adjustment of all interests between employers and employees, for a continuance of which policy we now plead.

If I say one word that would tell against a man who works with his hands, or any other man who labors in this country for the improvement of his condition and that of his fellows, I have reason for unending regret, and I shall not ask the forgiveness of Providence or of this committee.

It is not necessary for me to go into details before such gentlemen as the members of this committee, before whom I humbly appear. Gentlemen, if you pass this bill you take it out of the pockets of the man who works for 65 cents eleven hours and a half a day and whose babies work with him for 35 cents a day and you put it into the pockets of the man who wants to work about one-third less for twice as much pay. If that is legislation, if that is liberty, if that is government of the people and for the people, I am absolutely without understanding. Two and two is no longer four; but it is either seven or three. If this is a democratic government you will not take money out of the pockets of the people and give it in this way. I feel that I am speaking for the laboring man more than anybody else in making this statement. I think that I can stand it better than the laboring man, because what I will do, if I ever have to make anything for the Government, will be to charge accordingly.

The CHAIRMAN. In what kind of manufacturing are you engaged?

Mr. MILES. In the manufacture of implements for vehicles and farm wagons.

The CHAIRMAN. Of course you understand that those articles are not affected by this bill?

Mr. MILES. No, sir; but I have many friends who might like to work for the Government.

The CHAIRMAN. If you make wagons, they are excepted from the operation of the bill.

Mr. MILES. Then I speak absolutely without personal interest, and my position is none the worse for so doing.

The manufacturers of the United States are absolutely and thoroughly aroused. Fifty years ago this country did not amount to much. The manufacturer was a sort of a farmer. He would be typified by the man who made one shoe on his knee and around him were twelve other

men doing exactly the same thing—differing from him only in the fact that he took all the risk, while they received their daily wage. In those days the rule of thumb was sufficient. But we have come to a situation now where the manufacturers have developed the commercial interests of this country. They have made food cheap, and they have made clothing cheap. They have built battle ships, and have compelled the admiration of the world.

I think the manufacturers can be relied upon as people of competence and understanding. They are entirely aroused to this situation. They make no claim that they are better than the average citizen, but they are deeply affected, and every particle of energy and ability they possess is going to be given in full measure to the present situation. If you will postpone this legislation for twelve months, you will look upon this day with astonishment. We are not trying to settle it in a one-sided way. We are forming associations in every town, and we are taking a solemn oath, as binding as an oath can be made, with such of our employees as will join us in fraternal organizations—not against our employees, but with them—in order that we together may contribute largely to the solution of this question. If you will allow this legislation to rest here, we believe we will accomplish great things.

I thank you, gentlemen, for your attention.

ARGUMENT OF FREDERICK W. JOB.

Mr. Chairman and members of the committee, I am the secretary of the Chicago Employers' Association. I have come here at the instance of that association, comprising between two and three thousand employers of Chicago, who are not millionaires and not all rich people. In fact, the majority of them are small employers, such as the small laundrymen where the man, his wife, his daughter, and perhaps two or three hands work; or the proprietor of a wagon shop, or repair shop, where the man and his son and one or two hands are at work. I represent them as well as the large wholesalers and retailers. The manufacturers of Cook County employ in the aggregate between one hunhundred and one hundred and fifty thousand men in that county.

I represent in addition the Master Plumbers' Association of Quincy, Ill., comprising some 30 or 40 employing builders. I represent the United Employers' Association of the wood industries of Chicago, comprising some 80 employers and employing some six or eight thousand men. I represent the Citizens' Alliance of Bloomington, Ill., comprising from a thousand to twelve hundred men who are not all employers, as you will readily see, because a city of that size would not have so many employers as that in it, but a majority of whom are employees who do not believe in the modern methods of unionism, and who have joined with their employers. I also represent the Master Plumbers' Association of Peoria, Ill., and the Citizens' Alliance of Peoria, Ill., comprising between two and three thousand members, in which the majority also are nonunion employees—that is, nonunion in the modern sense. I represent the Chicago Typothetæ Association, comprising about 100 printers, employing some thirty or forty thousand men. I represent also the Citizens' Alliance of Kankakee, Ill., which has about 500 members, and the Citizens' Alliance of Decatur, Ill., which has about 350 members, consisting of employers

and employees. I represent the Manufacturers' Association, comprised of the three adjacent cities of Rock Island and Moline, Ill., and Davenport, Iowa.

In addition to these I represent the Citizens' Industrial Association of America, a delegate body lately formed from the central federation of the various employers' associations and citizens' alliances throughout the United States, of which Mr. Parry is president, comprising four or five hundred other employers' associations and citizens' alliances. At their last meeting at Indianapolis, on the 22d of February, they instructed me to come and speak for them before this committee in opposition to this bill.

I feel that some explanation as to the situation in Chicago is due, since the Chicago proposition is bandied about and talked about in the newspapers from one end of the country to the other. I am sorry to have to say at the outset that Chicago, which is usually proud of itself, and these various cities which are proud of each other and of Chicago, and the citizens' alliances and employers' associations of Illinois, are almost ashamed to have to come before this committee and plead for what they consider to be justice.

They believe that what they are asking they have the right to ask and to demand as a matter of right. The situation has become so acute in my own city of Chicago that it has reached a point where it is a question whether we have any government there at all. It is a question whether we can maintain our own self-respect as employers. It is a question whether we can protect our employees in their lawful right to earn a living, irrespective of whether they are members of labor unions or not, or whether we are about to go up together. It is not a very pleasant thing to say, as the gentleman from Wilkesbarre has said this morning, that manufacturers are leaving our city. They are no longer receiving protection. When a manufacturer is thinking of moving from the interior cities, either of the East or the West, he picks up a paper and finds that they have had another riot in Chicago. Then he immediately decides to go somewhere else.

In the year 1903 we had 1,300 strikes in Chicago—a little over 1,300 separate, distinct, and different strikes. We have had 49 riots of such a character as to call out from one policeman to a thousand and fifteen hundred policemen. We have had four murders growing out of labor troubles. I do not say that those four murders were all by union men. One or two of them were, and one or two of them were cases where union men were killed in self-defense, one by a foreman and another by a nonunion man. In each case the jury decided that they did it in self-defense, and they were not even indicted. Chicago, which in the past has been fictitiously alluded to as the wicked city, is now being called the picketed city, because the first thing you see on arriving in Chicago on a train, either from the east or the west, or the north or the south, is some strike, with the pickets patrolling the factory. As you enter South Chicago you will find the Illinois Steel Company picketed to-day. If you arrive from the west or the southwest you will find the Star-Wilson Milling Company being picketed, and in each case it is because the nonunion men want to earn a living and do not belong to the choice assortment of individuals whom Mr. Gompers claims to represent, comprising some 12 or 14 per cent of the laboring men of this country affiliated with and belonging to labor unions.

As you approach Chicago on the north you will find a shoe factory picketed to-day. They have no less than four or five strikes going on there all the time. I happen to know about these things, because as secretary of this association it is my business to look after and try to protect the employers in their right to manage their own business. We have in Chicago the peculiar spectacle that we have all over the country, of a partnership between labor and capital, in which one partner supplies the capital and perhaps a part of the brains and sometimes, we think, all of the brains, and the other partner, the laborer, supplies a part of the brains and the brawn of the firm. It is a partnership. They go on and work for a while and it is decided by the employer that he does not want to pay out as much money as he has been doing, or he wants to change the hours of labor, or perhaps he wants to hire a man who does not belong to some particular kind of religion. We have had that situation in Chicago, where there have been a crowd of socialists at work who are full of the precepts taught them by the labor unions. They decided that only socialists should work on the job with them and they struck because men were employed who were not socialists.

For some reason, perhaps trivial and perhaps important, the employer makes a change. He may be dissatisfied with his workman as a partner. Then the workman dissolves the partnership and quits. He says: "I will not work here any longer." The employer says: "Very well, if you do not want to work perhaps somebody else will; and if not, we will have to let the law of supply and demand take its course." But the workman says: "No; we have dissolved this partnership with you, but we are going to say who our successors shall be. He has got to belong to our union." The result is a strike or a riot, or something of that sort.

I claim that while the workman has a right to dissolve the partnership and the employer has the right to dissolve the partnership, neither has the right to say who his successor shall be. When the men quit work, the members of our association do not say that they shall not be employed in any other craft. But when there is a strike, we are always notified that we will not be permitted to hire a man who is not a union man.

You may think, gentlemen, that I am not talking by the card in this regard, and yet the grand jury of Cook County, Ill., which investigated and indicted some nineteen or twenty rioters, all of them union men, had the secretary of the federation of labor before it and asked him to bring forward his books to show the money paid out for slugging and other purposes, and they received from him the reply that if he did it would incriminate him. This grand jury called before it five police officers, Chief of Police O'Neil, Inspector Schuettlen, and Captains Lavin, Shippey, and Hunt. Those five gentlemen went before the grand jury of Chicago and testified under oath, with their hands up to heaven, that there was no such thing as a peaceful or peaceable strike in Chicago. When they were asked what they meant they said that as soon as there was a strike they knew there was going to be a riot by the strikers. That is one of the things which brings me before you to-day.

We have had 396 cases of violence in Chicago growing out of these labor troubles. Those are cases which we can actually put our hands upon and enumerate. There have been many cases where there was

so much doing, and it was doing so rapidly that we were unable to estimate how many there were. In the year 1903 there were 279 arrests in Chicago growing out of labor troubles and strikes. As compared with grade-grossing accidents, of which we see so much in the papers, we find that the number of casualties from grade-crossing accidents was 165 during the year 1903. We did not take the year 1903 for accident cases in fires, because in 1903 we had our memorable Iroquois fire. We took the year 1902, and we found that there were only 190 cases of accidents growing out of fires—almost twice as many calamities and acts of violence growing out of labor troubles in Chicago in a year as there were from grade-crossing accidents and fires combined.

Forty per cent of the labor reporters on newspapers are members of unions themselves. The cards give them facilities to obtain news better, and hence they would be inclined to give the unions a fair deal. They estimate that there were 450 cases of casualties growing out of labor troubles in the year 1902. I think it was from 500 to 1,000. That would be my own opinion if I were asked what I really believed had happened, because there are so many cases we can not keep track of. That is the condition in Chicago.

We have there the spectacle of an officer of the Federation of Labor, during a street-car strike, finding that they were perhaps going to lose the strike, which hinged not so much upon the question of wages as upon the question of employing only union men, at a meeting one Sunday in January, getting up and publicly advising from three or four or five hundred members to picket every workingman, woman, and child, to picket their families, if they were not union men, and make it so uncomfortable for their wives and children that the husbands would have to join the union. He did this on Sunday. On Monday, the next day, four children, thinking they would put this advice into effect, marched down to the south side and picketed the wife and children of a nonunion street-car man who was working. They called them such names that the police arrested those four mere children. Three of them were 12 years old and one was hardly 13. They were hardly old enough to speak plainly. And yet, putting into effect the doctrines of this Fagin, they were making insulting remarks to this woman. They were taken to jail and were paroled by the juvenile court.

Is it not fair to presume that of those four boys who have absorbed these doctrines, one or two of them, perhaps, will become criminals? If there was only one man who did this, you might say that he was a hot-head, promulgating these doctrines. If only one man did it, it might be considered a rare instance, and he might be considered as speaking only for himself. But out of the 20 or 30 union papers published in Chicago we have yet to find one single syllable uttered in derogation of or denunciation of these principles. If we belong to a church, and there is a man or a set of men who do what we think is not right, we either enter a protest or quit the church. If we stay we are presumed to approve of what is done. If one instance occurs it is perhaps a rare case; but if they occur every day we get out of the church or get the disturbers out. But not so with the leaders of organized labor in Chicago. I am frank enough to say to you, gentlemen, that I do not believe the rank and file of organized labor in Chicago approve of the acts done by their leaders. I think

that those leaders, from Mr. Gompers down, do not represent them, but do misrepresent them. I have considerable proof on that subject.

I have a little talk that I delivered in Indianapolis on the 22d of February, in which I cited forty or fifty cases where organized labor has rallied to the support of some candidate for election to office and he has gone down to defeat. Within six weeks I have had in my office in Chicago men who were officers in labor unions, and they said to me: "Job, if you want to get the labor vote, the way to do it is to get your opponent indorsed by the labor leaders, and the workingmen will go to the Australian ballot, where they can cast their votes in secret, and vote against the labor leaders." Those two men told me that, but they told me in confidence. I said I was going to use it, and they said it would be all right, but not to use their names in connection with it. They were in Chicago.

We have in Chicago Mr. James O'Connell, the vice-president of the American Federation of Labor. He is also president of the machinists' union, which, as a union, has been waging a war for a nine-hour day. There was a strike out on the Union Pacific road among the machinists some two years ago. Mr. O'Connell and his organization conducted that strike. Mr. Mulberry, one of the representatives and organizers of the Machinists' International Union, was out in Cheyenne, Wyo., when the strike was being conducted. He says, in the journal of the machinists' union published in January, 1903, regarding the strike on the Union Pacific:

> The machinists have a big strike on against the Union Pacific Railway. The strike is against the introduction of the bonus system of pay for men who can do extra fine work. I wish to say that this climate is not productive to the health of "scabs," as quite a few have been sent home very ill.
>
> Fraternally yours, GEORGE MULBERRY.

This was published in the journal of the machinist's union. The nature of the illness to which Mr. Mulberry refers is found in the report of the vice-president of the same union, in which he says:

> The hospitals are full of "scabs." They got hurt here at work and in fights among themselves. Four have died at Cheyenne and one was killed at Omaha, and three or four others have been killed in the shops. Picket duty is done in a very systematic manner. We are keeping tab on the "scabs." There is not a "scab" on the picket line that is not known to us now. The professionals are the only ones that stay, and you can do only one thing with them.

And as to this there is not one word of protest from Mr. Gompers, president of the organization of which Mr. O'Connell is one of the vice-presidents. They approve of it. The hospitals were full of "scabs." Men were murdered there and it was undoubtedly done by the machinists' union. These are the ideas which they have been promulgating and which have led to such crime and such destruction throughout the country.

I have gone into considerable detail regarding this situation, and you, perhaps, have wondered how it is germane to this hearing or to the argument against this bill.

The CHAIRMAN. We would like to hear you on that point.

Mr. JOB. I will tell you why it is germane and relevant. The chairman of this committee has been a practicing lawyer and has studied equity jurisprudence and pleadings. The first thing I learned, as a law student, was the principle of law that "He who comes into a court of equity, must come with clean hands." I submit that the leaders of

the labor unions of this country have not been coming before this committee with clean hands. I think their hands are stained with murder and other forms of violence. I do not think they are in a position to come and ask any favors of you. We had 1,300 strikes in Chicago, one for every time you sat down to a meal, in the year 1903; and the average has been greater since then. We think that the passage of a bill like this will simply make matters worse. It is notorious that in Chicago and other cities the greatest strikes and the greatest disorders occur among the building trades. That may possibly be because they have been longest organized. In Chicago and in our neighboring cities our greatest troubles have occurred because some men were working eight hours a day, because some unions compelled the men to do it, and other men were working nine hours a day. It has given rise to confusion, and will make a bad matter so infinitely worse confounded that the people of the city I represent come to you and appeal to you not to pass this act. Let well enough alone.

If this act is passed you will have the spectacle of people from the northern part of Chicago, the middle part, the southern part, and other parts of the city wanting to know what the law means. I have had no less than 100 inquiries from employers in Chicago, actual and prospective dealers with the Government, wanting to know what it means. From one end of the State of Illinois to the other the employers are at sea about it. They do not know what it means. They can not find anybody who does know what it means. The gardeners to the north raise food for the soldiers at Fort Sheridan. And, by the way, I want to say that the largest greenhouses in the world are located there. It is an association composed of some one or two hundred nurserymen. Those people have asked: "Will we be permitted to let men work for us more than eight hours a day when we are growing garden truck for the soldiers at Fort Sheridan?" I told them I could not tell them and I did not know anyone who could tell them.

The CHAIRMAN. Can you not answer that question?

Mr. JOB. I can not tell. Would you say it was or was not?

The CHAIRMAN. Of course, those things would not come under the provisions of this bill. If you will read the bill yourself you will make that same answer.

Mr. JOB. I will quote from a statement made, I think, by yourself:

> If an article is to be bid for, if a proposal is printed for an article to be submitted for sale, that is not within this bill. If a person undertakes to raise a quantity of seeds to be planted, grown, gathered, and delivered, that would be clearly under this bill.

The CHAIRMAN. I do not think that was ever uttered by me. May I see what you have quoted from?

Mr. JOB. This pamphlet says it is taken from Senate Document No. 141, at page 246. There are no specifications required for the onions, turnips, and beets that these people raise. A great many of them make a living by growing this truck and selling it to the soldiers at Fort Sheridan. I was asked by those nurserymen whether the law would apply to them. I told them I could not tell them, but that perhaps the Supreme Court of the United States or other courts would decide it, and perhaps they would not. A shoe manufacturer in the city of Chicago, a member of a prominent concern there which manufactures shoes for the Government, said to me: "Do my articles come under the provisions of this bill?"

I would like to know, Mr. Chairman, whether I quoted you correctly. If not, I want to apologize for misquoting you.

The CHAIRMAN. You may proceed.

Mr. JOB. A shoe manufacturer comes to me and says, "What about the shoes I furnish the Government?" He calls my attention to the fact that it is an article that may be usually bought in the open market. He says, "Does that mean such goods as usually are bought in the open market, or could be bought in the open market, or can be bought in the open market?" I confessed to him that I could not explain it. He asked me how to find out, and I told him to get into a contract with the Government and have the inspector come around and let him pass on it. He said, "I don't know whether I want to risk that or not. I think perhaps I had better consider myself out of it if this bill passes." In South Chicago we have steel mills for manufacturing Government work. A representative of that concern was in the city the other day, and he asked me what I thought of the bill—whether they would be exempt or not. I told him I could not tell.

The CHAIRMAN. Will you permit me to say that you were not in fault in having the misapprehension you did have about the statement attributed to me; but if you will take the whole of the text you will find that what I was trying to say was that the second section of this bill covers all such matters and they are excepted from the operation of the bill. It is badly expressed here, and whether it is my fault or the fault of the stenographer I can not tell. The exact point is that all of these things, being supplies and materials bought in the open market, are excepted from the operation of the bill by the second section. I acquit you entirely of any purpose to misquote me. What I stated is very unhappily expressed here, if fairly reported. You will find a dozen instances in the report of hearings where I have stated that such materials and supplies are excepted from the operation of this bill. When I say that it comes "under this law" I meant that it comes within the second section of the law, which excepts all of these things. You are not at fault, but the report is at fault. Of course seeds are supplies.

Mr. JOB. What would you say if a gardener said to you, "I expect to supply several hundred bushels of potatoes to the Government to feed the soldiers?"

The CHAIRMAN. Those are common supplies.

Mr. JOB. But they specify that they have got to be grown at a certain time and to be the product of a certain crop.

The CHAIRMAN. I see that you are a man of marked intelligence, and if you will turn to the second section of this bill you can answer that question yourself.

Mr. JOB. It says:

> Nothing in this act shall apply to contracts for transportation by land or water, or for the transmission of intelligence, or for such materials or articles as may usually be bought in open market.

The CHAIRMAN. Potatoes, for instance.

Mr. JOB. Yes; that is true. They may usually be bought in the open market. But suppose a contract was made with some of our furniture manufacturers for 100 desks of peculiar style, we will say like this desk, which is a particularly large one and was perhaps made to order. I do not think it would be carried in stock. As a general proposition, who is to determine whether or not this may be bought in the open market? Do you think that is fully covered in this bill?

The CHAIRMAN. I have repeated a dozen times that all of these things that can be bought in the open market, whether made according to particular specifications or not, are excepted in this bill. It is clearly expressed there. Have you any suggestion to make which would make the meaning plainer?

Mr. JOB. No; I have not.

The CHAIRMAN. Where is that pamphlet from which you read? I am curious to see who issued that pamphlet, which could mislead so intelligent a man as yourself.

Mr. CUSHING. It is a pamphlet issued and published by the National Association of Manufacturers.

The CHAIRMAN. Did you prepare it?

Mr. CUSHING. I did.

The CHAIRMAN. You had better try again. You pick out a little extract from this document, and by it endeavor to convey the impression that I said all of these articles come under the operation of the bill. You know that seeds are supplies and excepted under this bill.

Mr. CUSHING. Mr. Chairman, our people do not believe and can not be made to believe that this committee can construe this bill.

The CHAIRMAN. At least I should expect a gentleman of such respectability, representing such business interests, to endeavor to make a fair and not a misleading statement, such as this is.

Mr. JOB. I think you said that one could be very easily misled by the record.

The CHAIRMAN. I used here the language: "That would be clearly under this bill." The context shows that to mean "under the second section," which we are talking about. Above that is a distinct statement on the part of Mr. McCammon that anything that is manufactured in the future would come under the provisions of this bill, and that the articles last quoted to be manufactured in the future would not come under its provisions. I do not know what that means. I do know that anything made and usually sold in the open market—any articles, materials, or supplies usually sold in the open market, whether made to conform to particular specifications or not—comes within the exception provided by the bill.

A gentleman here the other day was alarmed about the question whether lace curtains were covered by the provisions of this bill. He probably had read that document which you have quoted. He wanted to know whether lace curtains would come under the provisions of this bill and whether he would be required to make them on an eight-hour basis. I think we very soon satisfied him that lace curtains, even if made to a particular pattern, were expressly excepted from the operation of this bill. I see that there is an immense amount of misinformation in regard to this matter, and I now see where some of it comes from.

You may proceed.

Mr. JOB. We think it is not the real desire of the workingmen of this country that this bill should be passed. Extensive inquiries have been made in Chicago and other cities where we have citizens' alliances as to the disposition of the employees toward this bill. They have invariably asked whether a reduction of wages would probably follow. When they have asked that they have been told that there would be a reduction of wages, because you could not work a part of

a factory eight hours a day and a part nine or ten hours a day and pay the men working eight hours a day the same wages that were paid to the others. They have almost invariably stated that they did not desire that. And yet we all recognize the fact that an eight-hour day is going to come at some time. We hope so. If it was intended by our Creator that we should work eight hours, sleep eight hours, and play eight hours then it is all right. As an attorney and secretary of this association, I am never able to do my work in eight hours. I work for nearly twice that length of time.

We do not believe that the laboring men themselves are in favor of this bill. We do not believe that if it was left to a referendum vote they would vote for it. We do not believe that the proponents of this bill can say that they represent the laboring interests of this country. Out of the total population of 82,000,000 in this country there are barely 2,000,000 in the American Federation of Labor. We would like to have you hear from some of the employees of Chicago who have investigated this subject. One gentleman was about to come here when he was taken sick, but he can be produced later on. We are sure the manufacturing interests of the country are against it. We believe, with a Presidential election approaching, when things are to be fairly turned upside down, so to speak, through apprehension, when affairs are necessarily in an unsettled condition so far as the industries of our country are concerned, that it is no time to enact such legislation as this.

If we turn back over the pages of the history of organized labor and industrialism we will find that years ago they were working fifteen, sixteen, and eighteen hours a day. They are gradually cutting it down. I think perhaps the time will come when we will be on an eight-hour basis; but we do not believe that any legislation has ever or will ever advance that result. It is pernicious. It will disturb existing conditions. It will produce inharmonious feelings between the employer and the employee. The man who blows the whistle may, by accident, have his watch a few minutes late, or he may be a little late in blowing the whistle, or he may be a little early in doing it, and it might, perhaps, result in the payment of a fine of $5 per man for every man working over eight hours. The employers, working on Government work, feel that there is danger in it, and those with whom I have consulted and talked personally have expressed themselves as not knowing what construction will be placed upon it.

On behalf of the associations I represent, we respectfully protest against this.

I thank you, gentlemen, for your attention.

ARGUMENT OF DANIEL A. TOMPKINS.

The CHAIRMAN. You may state your full name.

Mr. TOMPKINS. My name is Daniel A. Tompkins. I appear as the representative of the National Manufacturers' Association. I am one of its vice-presidents. I want to say at the outset, Mr. Chairman, that if the Manufacturers' Association, through its secretary, has made you appear to state what you did not mean to state we will, of course, correct it. I am quite sure that the secretary will correct it without any constraining influence.

The CHAIRMAN. Mr. Tompkins, I think you have yourself heard

me give my view of the second section of this bill, making these exceptions. You yourself have probably heard me make very plain that it was intended by the second section to except the things I have stated.

Mr. TOMPKINS. I can not say that I remember specifically this one exception you speak of now; but you have stated, many times, a great many exceptions. I have no doubt that the pamphlet can be so changed as to express your view.

The CHAIRMAN. I am quite sure you do not desire to have any cause advanced by misstatements and misinterpretations.

Mr. TOMPKINS. I am sure the secretary has not intended any misinterpretation or misrepresentation, and that he will voluntarily correct the mistake, but if he does not the association will order it done.

Mr. CUSHING. The truth can not be discovered too thoroughly or too quickly to suit us.

Mr. TOMPKINS. We would be equally careful not to make any misrepresentation of the position of the gentlemen on the other side. We are pursuing this question purely as an economic and moral proposition. It must stand upon argument and upon its merits in that respect.

I live in the South. We feel that we are just beginning to fairly recover from too much restriction in respect of labor. The progress of the South was halted and hindered through a period of more than fifty years by a restriction upon labor that reached to the degree of absolute slavery. The State in which I live was once one of the best manufacturing States in the Union.

The CHAIRMAN. That is North Carolina?

Mr. TOMPKINS. North Carolina. It had blast furnaces, woolen mills, cotton factories, and wagon factories galore. It had at that time as much manufacturing as any State in the Union. But the South became more and more under the influence of the institution of slavery, which I consider to be practically the equivalent to the restriction of labor, and that wonderful manufacturing development gradually dried up in exactly the proportion that the institution of slavery grew stronger and labor became more and more restricted. From a position as the third State in the Union when the Union was formed, North Carolina gradually went downward and downward as labor became restricted. Immigration gradually diminished and ultimately ceased. Emigration to the Northwest began and continued up until fifteen years ago. Slavery having been abolished and the restrictions on labor having been removed, self-respecting men being able to stay there and work, instead of having to go to the frontier a thousand miles away to get an opportunity to work, the conditions of manufacture immediately revived. Emigration immediately ceased and immigration immediately began again. In every movement that has taken place in the South since the war, barring the period of anarchy succeeding the fall of slavery, we have seen the beneficent influence of the greatest possible freedom and of having no restriction whatever upon either labor or commerce.

Having lived in a State which from 1830 to 1860 did not make any progress either in wealth or population because of the labor conditions, because labor was so restricted that it was nothing but labor, and having seen the removal of that condition followed by a progress in wealth and population equal, perhaps, to that of any State in the

Union and superior to many of them, we naturally feel a little like the child who has been burned by the fire. We do not care about undertaking any more restriction than is necessary to regulate commerce. Above all things, we do not want to see one man regulate another man. The natural disposition of the human race seems to be for one man or one set of men to want to regulate the other fellow; but he resents being regulated himself. I have seen a great many instances of that. I could recall individual instances of people who preached a doctrine; but the moment you made it applicable to them they became seriously offended.

The CHAIRMAN. I understand that in your own State you have to a considerable degree adopted a provision whereby one man is regulated by another man, by depriving many men of the right of suffrage and having the rights of some men cared for by the exercise of the suffrage of other men.

Mr. TOMPKINS. I hope the chairman will be as fair to me as he expects me to be to him. We have made laws in our State which regulate voting and which prohibit anyone from voting until they fulfill the conditions applicable to a voter. I do not think it is hardly fair to say that in making laws to properly regulate voting we are going further than is best for each individual citizen and best for all the citizens.

The CHAIRMAN. I referred only to your statement that you did not believe one man has a right to regulate the affairs of another man. I thought you ought to qualify that statement.

Mr. TOMPKINS. We understand that crimes should be regulated, and we have made laws to regulate them. We understand that the vote should be honest and reasonably intelligent, and we have got to make restricting laws to regulate that. It is simply like making laws to repress crime; and we go no further than is absolutely necessary for that regulation in the matter of voting in North Carolina. It is imposed upon every man who votes to fulfill certain conditions, and when he fulfills those conditions he votes. Until he fulfills those conditions he can not vote. It is a wholesome regulation. The morals and government of the State require that those regulations should be enforced. There is no intention under the laws of North Carolina to have one set of people exercise any sort of sumptuary regulation over other people.

But to continue this line of argument: We want no more restriction than is necessary for regulation. I have explained how under one condition of restriction our State did not prosper and how under another condition of freedom upon all questions the State has prospered. I might go back of the past institution of slavery and point out that before that extreme regulation came the State did prosper. I want to point out to this committee, the members of which are gentlemen interested in this subject, that in my opinion the very greatness of this Government depends upon the fact that it was founded upon the principle of freedom I am contending for. Those of us who have lately come from Europe and our ancestors were more influenced in leaving Europe to come to this country because there was no restriction than by any other influence. In some few instances it was religious liberty they were seeking; but in the majority of instances the Europeans come here and put themselves exactly in the situation the non-voting citizen of North Carolina occupies to-day, because it was open

to him to qualify himself not only to become a citizen of the United States, but to become a member of the United States Senate, if he fulfills the conditions.

I believe that is what has brought the number of Europeans who are now in this country to this country. It was that opportunity which brought our forefathers to this country. When we get to a point where one set of people want something done for their particular benefit, which handicaps and hinders a man from working to any degree that is necessary for the success at which he is aiming, we are reproducing the conditions from which we all fled, and reproducing the conditions from which our forefathers fled when they left Europe and came to this country.

In the whole of the Piedmont district we have a great number of new manufacturing interests. We have naturally a great number of people who have just removed from farms to factories. We have a great many people who were living on farms in the most impoverished condition, because the occupation on the farm was not profitable. There was an excess of competition in the production of cotton and in the production of all agricultural products in the South. The growth of manufacturers has made a market not only for perishable agricultural products but a market for labor.

Upon going into these new occupations, the people are prospering as they have not prospered since the civil war, and many of the working people are prospering more than they did before the civil war. In the situation that now exists we are making an effort to get out of the mud-hole of poverty in which the civil war left us. We are making progress in the shortening of the hours of labor, in the reduction of a day's work in the factories, in the extension of the school system, and in other ways, without enforcing regulations in respect of it, under the influences of the desire of the people to improve themselves in every particular; and we feel that regulation will simply hinder and not promote the continuation of that progress and development. The factory operatives in the South live in houses that are 500 per cent better than those in which they lived on the farm. The houses that are being built to-day are 200 per cent better than those that were being built ten or twelve years ago. What is done by the organization of the mills is far more than what was done ten or fifteen years ago, and more than it was then thought would be done. The development of the public school system of education is growing rapidly. We feel that the situation is like that of a tree that is growing in a wholesome atmosphere. We put as much stimulating influences about it in the way of fertilizer as is wholesome and good for it, and then the best thing to do is to let it alone, and not try to make it grow by pulling at it, when you run the risk of pulling it out by the roots.

The CHAIRMAN. Before you came in a gentleman who was addressing us stated that in your State there were places where small children of perhaps 12 years of age were receiving 35 cents a day and laboring eleven hours and a half, and that skilled laborers were getting a dollar and a dollar and a quarter a day for eleven hours and a half of labor. I have no doubt he was sincere in making that statement. Just here I would like to have you explain that matter. I wish you would tell us whether your information coincides with his.

Mr. TOMPKINS. In the development and growth of the cotton manufacturing industry in the South, commencing fifteen years ago—and

that is simply cutting off a period for it to commence, because there has been cotton manufacturing in the South for a hundred years—when the farm hands began to come from the farms and go into the cotton mills there were some mills in which the hours of labor were twelve, and in which you could find children as young as 12 years of age working. But that was a condition in which everything was new. There was no regulation of any kind. The owners and manufacturers in the mills were as awkward with reference to the situation as it was possible for men to be. But from that time forward, and up to the present time, there has been a constant improvement. I think that at the present time there is not a mill in North Carolina that runs over eleven hours, and many of them are running ten hours. There is not one in which a child is employed who is under 12 years of age, if the manager knows it or if the general bulk of the operatives know it. An exception may happen, as you know, without the knowledge of anyone.

The CHAIRMAN. Do those children work eleven hours a day?

Mr. TOMPKINS. Some of them work eleven hours a day and some of them work ten hours a day. But I emphasize the statement that the elimination of child labor is going on all the time without any legal necessity for it. It is being accomplished by the mills contributing what money is necessary for the schools, and by their bringing every sort of pressure upon the children to go to school and upon their parents to send them to school instead of putting them into the mills. We have not reached the limit of what is going to come in respect to hours. As Mr. Job told you, probably the day will come when there will be an eight-hour day; but it will come by reason of natural influences and not by pressure. It will come as quickly without legislation as it will with it, and probably quicker.

I read a little book the other day by Herbert Spencer, called Fact and Comment. He spoke of the disposition of the philanthropic element of humanity to undertake the completion of some reform that was already well underway and that was going to complete itself in good shape. The hours of labor in North Carolina, the education of the children, and the improvement of the people have been going on ever since slavery was abolished, and is going to continue to go on without legislation. We think that the way to get the best results is to have the least possible restriction.

So far as I know, Mr. Chairman, the passage of this law would lead to great confusion, in spite of the definition which you have placed upon the matter as to what is and what is not included under this list of exceptions. There are still opportunities for a great deal of confusion and a great deal of exercise of the judical power by purchasing agents of the Government. In those sections of the South that are now, in the matter of manufactures, where New England was fifty years ago, they would be hampered and hindered in undertaking to do business with the Government in a way that no other section of the country would be. We feel that we ought to have equal opportunities with the other sections of the country. We feel that the individual ought to have the right to sell his products to the Government on exactly the same conditions that others are selling, making allowances for our short capital, for our still undeveloped skill and our want of education. Give us the opportunity which the immigrant from Europe comes here to get. Leave the whole subject unrestricted and if we

want to work longer hours for the present, for the purpose of getting the capital necessary to improve our situation and develop shorter working days and better conditions, let us have the liberty of doing so.

The CHAIRMAN. You are engaged in the manufacture of cotton goods?

Mr. TOMPKINS. I am concerned not only in the manufacture of cotton as such, but I am a contracting engineer for building cotton mills.

The CHAIRMAN. You are aware that all the products of cotton mills are fully and clearly excepted by the second section of this bill. You have no doubt about that, in your own mind.

Mr. TOMPKINS. I am not fully aware of it.

The CHAIRMAN. All the products of a cotton mill are either bought in the open market or are supplies.

Mr. TOMPKINS. What about cotton-seed oil?

The CHAIRMAN. Can you not buy that in the open market?

Mr. TOMPKINS. It is generally bought from the mills. A very large amount of it goes into lard, and it is sold directly to the lard maker.

The CHAIRMAN. Anybody can buy it in the open market. I can buy it and, in addition to that, it is used by the Government as a supply so that on the two grounds cotton-seed oil is excepted under the second section of this bill.

Mr. TOMPKINS. In many cases lard, in which cotton-seed oil is the greatest ingredient, would be used by the Government.

The CHAIRMAN. All of those things are supplies. That is an ideal instance of the definition of a supply.

Mr. TOMPKINS. Regardless of these particular items, there remains the general proposition that there are certain articles of manufacture which can not be sold to the Government except upon this restriction. I do not believe in any restriction at all. I believe in open commerce. I believe that absolutely open commerce is an American institution, and that we are going back to the very conditions from which our forefathers endeavored to escape when we get into the subject of restriction.

The CHAIRMAN. This committee will meet to-morrow at 10.30 o'clock. There are a number of gentlemen here from a distance who desire to return to their homes. These hearings will only continue now for several days. It is difficult to get a majority of the committee here, as they are busy in half a dozen other committees.

(The committee, at 12 o'clock and 10 minutes p. m., adjourned until to-morrow (Thursday), March 24, 1904, at 10.30 o'clock a. m.)

WASHINGTON, D. C.,
Thursday, March 24, 1904.

The committee met at 10.30 o'clock a. m.

Present: Senators McComas (chairman), Dolliver, Clapp, Burnham, and Newlands.

ARGUMENT OF J. J. SPALDING, ESQ., OF ATLANTA, GA.

The CHAIRMAN. Proceed, Mr. Spalding. You represent whom?

Mr. SPALDING. I represent the Georgia Industrial Association in part, and I represent myself in part.

The CHAIRMAN. You are engaged in manufacturing?

Mr. SPALDING. Yes, sir.

The CHAIRMAN. What do you manufacture?

Mr. SPALDING. We manufacture cotton, and manufacture electrical output and power plants, and are engaged in other industrial pursuits down there.

The exact situation I am in is that I live in the South and have helped to try to build up what we have down there. I have no inherited wealth, and not a great deal of what I have accumulated; but what I have I worked for and made. I am a director in a couple of cotton mills, director in a power plant, and a number of other industrial enterprises down there. I am an attorney at law by profession.

I came up here to lend what little weight I might to the opposition to this proposed legislation. I came largely out of the feeling that the South, which is just beginning to develop its industrial resources and to look forward to a time of prosperity and progress, has been more or less lethargic about this matter, and has suffered these things to go, as it were, by default.

We have seen the evil effects that flowed from the parties who are behind these laws throughout other parts of the country, and we have come to the conclusion that we do not want any of it in our part of the country. We have not got it there now, and we do not want to suffer the miseries that the people are suffering who have these laws. And we want to come here and to say that the fact that we have not come before is not because we acquiesce in any such measure as this, but because we were merely developing and thought the greater interests of the country would take care of this matter.

This law, as we view it, is part and parcel of a scheme and plan of laws that is being agitated for over the country, sweeping forward to diminish the quantity of labor in order to increase the price. It has behind it the motive of putting the minority on top of the majority, and enabling them to control the situation. We feel down there that with our population we are getting to be an agricultural people and also a manufacturing people. We feel that there is no justice in the lawmaker taking the tax money of a farmer who has worked twelve hours a day to get that tax money to pay his taxes with, and turning around and employing a man to do a day's work with it, and paying him for a full day's work when he only does eight hours' worth. That farmer works according to the day that the Almighty made—while the sun is shining, and he rests according to the night that the Almighty made—while it is dark. He can not understand why there should be any special privilege or any special class legislation that would give somebody else a preferential right when you go to invest his tax money for him and pay for service rendered to the public, of which he is a part and a very great part.

The men who are behind this bill have exploited these laws down there, and our legislature has sat down on them; and——

The CHAIRMAN. Of course you understand, Mr. Spalding, that this bill does not at all affect agricultural labor.

Mr. SPALDING. That is where we take issue with you. We think it does affect agricultural labor, and that that is the purpose and intent of it—to affect all labor and all citizens in this country.

The CHAIRMAN. Will you kindly state the particular in which it does?

Mr. SPALDING. Yes, sir; I will state it to you with pleasure.

The CHAIRMAN. As to the farmer?

Mr. SPALDING. I will state it to you with pleasure.

The object of this law is to get the stamp of governmental approval on an eight-hour day. They go to work to say that a man shall not work in this Department but eight hours a day; and you have got to put in more machines, you have got to increase your capitalization, you have got to take on more men by 20 per cent to get the output that you formerly got on a ten-hour day when you come to an eight-hour day. In order to get those men you have got to go and make a draft on the other labor resources of the country and draw from that supply, and thereby diminish the supply of labor at the expense of putting up the prices; and so I say the farmer is directly interested in it as vitally as anybody. They see the handwriting; they know what this is intended for—that these people just want to start this thing in here, get it well established, and then come on down the line.

We have had these same bills in Georgia. They came down there and wanted to make it a ten-hour law, and it is a part and parcel of the same scheme. Our people understand that thoroughly, and they take square issue with the proposition that this law is simply intended to affect a few people. If they are proceeding in good faith to accomplish that end, why is it——

The CHAIRMAN. You mean to say, then, that you object to the tendency of a proposition like this?

Mr. SPALDING. Yes, sir; and to the Government putting its stamp of approval on any such pernicious measure.

The CHAIRMAN. You understand that its terms do not at all affect agricultural labor?

Mr. SPALDING. I do not know about that. The technical expressions that you would employ might not particularly punish a fellow for contracting with an agriculturalist for something like that, or cutting the output of an agriculturalist down to twelve hours a day.

The CHAIRMAN. How could that be done?

Mr. SPALDING. Well, I do not see; I do not see how that would do it; but it comes right down on him; it comes out of him. You take his tax money to hire a man for a full day's work who only does eight hours' work, when he has to work twelve hours a day to get that tax money to pay the Government charges and Government revenues.

The CHAIRMAN. But how does it come out of the farmer?

Mr. SPALDING. Because he helps to pay the taxes. You put your tariff on him, and you put your internal revenue on him, and you raise the tax money; and when you get up here to Washington you take that tax money, and instead of paying a man to work twelve hours a day, as he had to work in order to earn that tax money, you only pay him for eight hours work as constituting a full day's work.

Then it comes back, I say, on the other proposition, that you diminish the supply of labor. It takes more men; it takes more investment to produce and operate your plant and get the output if you limit it to eight hours a day; and in turn the man that got that output goes to reaching back behind him to get the labor, and that takes it from the other man and makes him have to pay a higher price for the labor that is left than he would have to pay if you did not construct the piece of machinery that sucked the labor in and took it away from him; and they therefore antagonize it.

To come back to the first proposition, the men in my part of the

country do not understand why it is that there should be this distinction. Why is it that you are going to pick out one set of people in this Government and make a special law that favors them at the expense of the farmer and the manufacturer and the banker and the other business interests of the country? What is the occasion for the discrimination? Our people understand thoroughly that it is a part of a general plan and policy to get the Government approval on the proposition that eight hours should constitute a day's work, and to come along down the line until every single one of them has been weeded out; and they are against it. You can go all over the South and pick out the men down there that make their living by the sweat of their brow—the actual laboring man, the fellow that sweats on his brow, not the fellow that sweats on his jaw—and you will find that 90 per cent of them are against it.

The CHAIRMAN. You know, of course, that this is not a novel proposition?

Mr. SPALDING. No, sir; that is the trouble about it. They keep battering at it so much up here that we have gotten scared about it.

The CHAIRMAN. You are aware that under the Administrations of General Grant and President Cleveland two labor laws—eight-hour-day laws—were enacted, are you not?

Mr. SPALDING. Yes, sir; and we think that if you want to do anything you ought to repeal those laws, and pass some law against picketing and boycotting, and strengthen the existing laws we have to protect property and to protect the individual rights of citizens in this country instead of passing any more pernicious laws.

The CHAIRMAN. Do you not think that if you want a law against picketing and boycotting you should apply to the legislature of Georgia—that that is a State concern and not a national concern?

Mr. SPALDING. Yes, sir; and we think this ought to be left to the States, too. We think you do not want to put here the governmental stamp of approval on an eight-hour law and let the pressure of that come down on the States. We will attend to it in the States.

The CHAIRMAN. This is an eight-hour bill for Government contractors.

Mr. SPALDING. I understand; but the object of it is to get the Government approval, just as we did when we started our exposition. We came here and got the Government to give us a little appropriation, just to get the stamp of approval on it to make it go. That is what it means. That is what everybody understands it to mean all over the country, that it is done for the purpose of getting the stamp of governmenal approval on it and saying: "Why, your National Congress has adopted an eight-hour law, and here you are down here, in this benighted country, sticking out for a different law."

The CHAIRMAN. But you are opposed to the existing law, which has been in force since 1868, which declares eight hours to be a Government day's labor?

Mr. SPALDING. Yes, sir; I am opposed to it.

The CHAIRMAN. You think it ought to be ten or twelve?

Mr. SPALDING. I do not know about that; but I think they might let people contract in this country. I stand on the proposition that we have an example before us in the fact that the greatness of this country has been produced by the labors of our forefathers, unhampered by interference or meddling in these things.

What made this country great? Was it these agitators that go

around here trying to interfere with individual rights, and trying to interfere with individual contracts, and trying to engraft on us all this paternalism, trying to inaugurate here a policy that leads to socialism and State government? Is that what made this country great?

I do not think so. I think this country has been made great by preserving the individual liberties of the families and of the individual citizens of this country and letting them work and contract for themselves and go on and do their business as they have been doing in the past to build this country up and continue its greatness; and I think that when we commence this kind of paternalism and this kind of interference with personal liberties we are taking a retrograde step and going back from the point to which we have risen.

You can not point out in the history of this country where the men that cleared up the forests and paved the way for civilization ever worked under any such rules as these. The manufacturing interests of this country have not been built up by any such laws as this. Our present greatness, that enables us to go out into the markets of the world and sell our goods, has not been built up on laws of this kind, and it can not be maintained on laws of this kind. We can not raise cotton in the South and spin cotton in the South and ship it to China and Japan and the open markets of the world with you hamstringing us and holding our hands and fixing laws that are going to put us under the dominion of these agitators. We need help from you—not embarrassment and discouragement.

The people are aroused on this thing. They have been sitting by, asleep, and a little handful of these agitators, like a lot of frogs croaking all over the country, have made the people believe that they are the voters and that they can dominate and rule this country. But it will be just like the frogs—when you go out to hunt them they are not there. They make a noise, but when you go to get the individual frog he is not there.

I tell you that the people are waked up about this thing, and they are going to have a hand in it. They are going to speak up. The matter has been going by default heretofore, and they see the menace they are up against. They see what it is leading to, and they are aroused now for the first time, and they are beginning to talk about it in the business houses, and in the counting rooms, and in the banks, and on the farms.

Go down there to the Georgia legislature, and go up against one of our agricultural——

The CHAIRMAN. Then you are opposed to any legislation that might benefit labor? You are opposed to a protective tariff that would benefit labor, I suppose?

Mr. SPALDING. Well, I do not wish to be drawn off to the discussion of that proposition——

The CHAIRMAN. I do not mean to do that.

Mr. SPALDING (continuing). So as to set anybody that might be in favor of a protective tariff against this particular law merely because I happen to be on the other side of it. I have my views about it, of course. But I believe that the greatest good to the greatest number comes from the least interference with the individual right of contract, with individual rights of doing business in this country. We have the past to guide us, and that is the way we have succeeded in the past—by letting these people alone and letting them make their con-

tracts. I do not see any justice or any justification in singling out the laborer and passing laws to allow him to combine and to boycott, and to pick out my business and make it legal for him to commit all kinds of crimes and offenses against the law and at the same time pass a law saying that I shall not combine to defeat competition nor to interfere with trade nor to further my ends.

What interest is there in the country which demands that you shall pass discriminating legislation just because a man happens to be a laborer? Yet, look at the matter in this way: The whole wealth of this country is nothing but accumulated labor. What is wealth? It is what some fellow sweated and labored for and saved up. And are you going to encourage him while he is laboring for it and while he is sweating for it, and then when he gets the fruits of his labor, the essence of his sweat, turn around and discriminate against it? Is it any the less the fruit of labor than it was while he was working for it? Is it any the less entitled to the protection of the law because he has actually culminated his efforts to accumulate by his sweat and his labor?

I say that you are striking a blow at the laborer himself, and putting him in a position where you take away from him the hope of reward and the hope of enjoyment that comes from his accumulating and saving and getting to be a property holder; for the property holder himself, in the last analysis, is nothing but the holder of the accumulated sweat and labor of the country. So I say that laws of this kind hurt the laborer himself. They hurt the Government itself in the aggregate, because you destroy the producing power of the Government. You take away its power to compete with other nations in the outside open markets of the world by striking down the quantity of labor that you can utilize in the Government to produce your output.

That is the position of the people down in my section of the country. I believe that those people, taught by the afflictions and distresses that the war left upon them, are the most conservative body of people in this Government to-day. They do not want any disturbance. You see less riots, you see less strikes, you see less boycotting, you see less of all that goes to make up the sum of the misery of the northern man that happens to have a factory or a business down there than you do anywhere in the world; and we do not want any more than we have.

The CHAIRMAN. You are a cotton manufacturer?

Mr. SPALDING. Yes, sir.

The CHAIRMAN. What is it that you manufacture?

Mr. SPALDING. We manufacture yarns and cloth sheetings.

The CHAIRMAN. Of course you know they are excepted by the second section?

Mr. SPALDING. I understand that this specific bill is shaped up so that, technically, it applies only to Government contracts; but I also understand, as I said in the beginning, that it hits me, it hits every other tax-payer in the Government, and it hits every other industry in the Government; and that is the reason why I am here objecting to its passage.

The CHAIRMAN. Are children employed to work in the cotton mills in Georgia?

Mr. SPALDING. We have a regulation, sir, of our own, that regulates that matter in the most satisfactory way.

The CHAIRMAN. I am asking for information.

Mr. SPALDING. No one under 12 years of age is employed in the factories of Georgia, by the voluntary action of the mill owners. I do not want to get off into that discussion, however. I can justify our position in that respect.

The CHAIRMAN. I simply wanted you to give us the information.

Mr. SPALDING. I am a director in a mill that has been running sixty years. That mill operates in the town where President Roosevelt's mother and father were married, and where his mother came from. It has been running there for sixty years, except when Sherman passed by and accidentally dropped some fire on it; and then they rebuilt it right away, and it has been running ever since. Now, that mill is to-day in operation. The fathers and grandfathers of the operatives employed in it came from that community. You can not find a finer body of people in this country; you can not find a lot of operatives among whom there is less social distinction; you can not find a more healthy, more intelligent, or a more upright set of people than they are. They have their local laws. They have their prohibition law. They are an ideal community right there in that town.

The CHAIRMAN. How long do the boys and girls 12 years of age work? How many hours a day do they work now?

Mr. SPALDING. They are not allowed to work at night at all.

The CHAIRMAN. How many hours out of the twenty-four?

Mr. SPALDING. Our limit is sixty-six hours in a week; and I want to say this——

The CHAIRMAN. Do those boys and girls work sixty-six hours a week?

Mr. SPALDING. After a fashion, they do; but they are not employed upon the heavy work. They are minding machines, and they play half the time while they are at that.

Talk about the laboring people wanting this law! The laboring people do not want the law. They are the class that are kicking against it down there. They do not want any of these laws—not down with us. The agitators want them; but the fellows that actually do that work are not after the law. They do not want it.

There is another very peculiar phase about all these laws—the child-labor law and this law—that brands and stamps every one of them that I ever saw, and that is, that the penalty in the bill, instead of punishing the principal in the offense, punishes the accessory. If I hire you to go and commit a murder, the law tries you for murder and holds you responsible for committing the murder. I am an accessory only. This bill says, however, that if I hire a workman to go and violate the law that you say here shall not be violated, he goes scot-free, and you take the pay out of the contractor, even if his subcontractor be the man that hired him. You take the pay out of the accessory and turn the principal loose. It is an invariable feature of every one of these paternalistic and sumptuary laws that I have ever seen, that they punish the wrong fellow. You punish the accessory and turn loose the principal.

That is the way with all this class of legislation. That is the way the agitators tried to do down there when they tried to pass laws about the children. We passed our own law and we are enforcing it, and we have it advertised in the papers that we defy anybody to show that it is violated anywhere. We have a condition down there that is satisfactory, that betters the people from the condition they were in

before they went to the factory. They have their school houses, for example. Seventy-five per cent of the mills in Georgia maintain free schools and free books for the children who, to a large extent, were without those facilities before they went to the mills.

The CHAIRMAN. When do those children that work sixty-six hours a week go to school?

Mr. SPALDING. They go to school during the course of the year, and one of the regulations of the mills provides that they have to go to school so much during the year before they will be allowed to work in the mills.

The CHAIRMAN. How many months, if you remember?

Mr. SPALDING. I can not recall that; it is a printed rule down there.

The CHAIRMAN. I do not care about the precise time.

Mr. SPALDING. It is a reasonable amount of time that they have to go; and there is a further stipulation that after a certain age the employees must know how to read and write, and have certain elements of education. They are handling the matter themselves, without outside interference and without duress, and without the law discriminating against them. They are handling it in a way that is satisfactory to the people and to the employees and to the operatives, and they do not want these laws. They do not want this law that is turning them loose to boycott and to picket and to strike down the injunction situation. They do not want any laws of that class. They are against it, and the people down there are going to use their best efforts to prevent it from being done. From a state of lethargy, from a state of indifference in the past, they are going to stand up and let it be known in no uncertain way that they are against these laws, and have been against them, and that it must not be taken that because they have sat quiet in the past they are simply going to let them go by default in the future.

I have read to some extent the arguments that have been delivered before this committee. I do not want to go to work and thresh over straw that has been gone over before. You have heard all of these legal phases discussed. You have heard the general subject discussed. I came to speak to you more especially on behalf of a section of the country that is just seeing the dawn of prosperity. It has its magnificent resources in its cotton. It has its magnificent resources in its water power and in its marble quarries and in its mineral beds and in its pine forests. We are just beginning to hear the hum of industry down there; and it is not jarred. There is no discordant note of these strifes and strikes that exist elsewhere. We do not want people interfering with us and preventing us from having our funeral processions the way we want them; and we do not want any laws that are going to encourage the kind of people that are seeking encouragement in this line at the hands of the national legislators. We do not think you ought to pass any discriminating legislation. Let the everlasting laws of supply and demand, of individual right, the everlasting laws that controlled this Government, and built it up to its present point of greatness, continue on down the line; and let us see if we can not go on and continue our glory and our greatness without any legislation of this kind.

I believe that is about all I have to say.

The CHAIRMAN. We are very glad to have heard you.

Mr. GORDON. Mr. Chairman, in addressing your committee day before yesterday the question was asked me if I knew that this bill exempted certain goods that could be bought in the open market.

The reply to that question is that we have with us to-day from Georgia a gentleman who is making a peculiarly heavy duck for Government specifications—Mr. F. E. Calloway, of Lagrange—who would like to address you.

The CHAIRMAN. We will hear you, Mr. Calloway.

ARGUMENT OF FULLER E. CALLAWAY, ESQ., OF LAGRANGE, GA.

Mr. CALLAWAY. Mr. Chairman and gentlemen of the committee, I should not feel justified in taking the valuable time of this committee but for the fact that I come from a section of the country where manufacturing is in its infancy, and consequently is extremely sensitive to adverse conditions. The effect of a measure so radical and far-reaching as the proposed legislation in this bill will not only be to cripple and hinder the further progress of our industries, but many of them will, I am afraid, be wiped out of existence.

Let me direct your attention briefly to a few controlling facts—facts which, taken together, make for us a condition which must be dealt with in terms of fact, and not of mere theoretical and aphoristic altruism.

Manufacturing in the South is almost wholly confined to cotton, because we produce there the raw material for it. The industry is in its infancy, and, consequently, is confined to the cheaper grades of cotton product. The cheaper the grades of goods manufactured the smaller the margins of profit, and the simpler the processes of manufacture the greater the relative value of labor in the total cost. Consequently whatever unnaturally increases the labor cost endangers the margin of profit.

The South can, least of all sections of our country, survive arbitrarily high-priced labor, because we have little money of our own. We must have capital drawn from the richer sections of the country to build our mills and to operate them. Money with us is so costly that we are compelled to seek the cheaper money of other sections. We can not procure this money unless our enterprises pay dividends which justify this Eastern capital in seeking investments with us.

Next to capital, our labor conditions are critical. Our native population have been for generations trained on the farms, and not in factories. There is not a factory force in the entire South whose training in mills will average ten years. It will require twenty years yet to come to give us one generation of trained help for the mills already built. However intelligent and willing and apt our help may be, it lacks that uniform excellence that must be bred in the bone.

We of this generation can hope for little relief from immigration, either from abroad or from the older manufacturing centers of our own country. Although it has been shown that southern mills pay the same wage as northern mills, and the climate is milder, living cheaper, and the hours of labor the same, we are persuaded that there are other conditions which keep the northern laborer in the North.

It is not my purpose to discuss the reasons for this. The fact of its being so is the stubborn thing to be dealt with. Our own supply of such labor as we can get is inadequate to the demand. Shorter hours

will not induce our people to quit the independent and open-air life of the farm for the mill as long as the price of cotton makes farming remunerative. The rigor of the climate and poverty of the soil has drained the New England farm and filled the New England mill. The reverse of these conditions in the South makes mill recruiting slow.

Our natural advantages are quickly stated: A climate permitting work the year around, cheaper living, and, to an appreciable degree only, the proximity of the mill to the raw material. Our disadvantages are: Lack of money, high-priced money, unskilled and unsufficent labor, an unnatural but unavoidable barrier to immigration.

Apply the provisions of this bill to our labor and instantly our profits reach the vanishing point. The South is no longer an inviting field for northern capital, and our industries perish.

I shall not speak of the political phases of this legislation from the Southern standpoint—that it is class legislation; that labor monoply is as unjust to the consumer as industrial monopoly. I am here as a practical business man, prepared by my actual employment to show, through concrete proof of any proposition I have announced, the menace of this legislation to the further prosperity of the two cotton mills with which I am connected.

I am secretary and treasurer of the Unity Cotton Mills at Lagrange, Ga., and agent of the Milstead Manufacturing Company at Conyers, Ga., both making cotton duck from 16 to 128 ounces, or 8 pounds to the square yard, and from the narrowest to the widest known to the trade. Both mills are independent of the duck trust, and a large part of their product is made on special specifications for the Government, and it would be as impossible for the Government to buy in the open market most of the duck we make for them as it would be for them to buy armor plate of a hardware store.

Consequently, the provisions of this bill do not exempt our plants, as such goods as we make for the Government are not made up for stock or for the open market by any mill. If this bill becomes a law it will prevent us from further bidding on Government contracts, thereby entailing great loss to us as well as eliminating us as competitors for Government contracts, which would certainly have the effect of forcing the Government to pay greatly increased prices.

The CHAIRMAN. Japan and Russia are now buying cotton and duck in the open market. You say you make your cotton duck according to particular specifications?

Mr. CALLAWAY. No, sir; we make standard cotton duck for commercial uses, but the United States Government buys all its duck to be made on special specifications.

The CHAIRMAN. That is true I understand, and section 2 of this bill exempts such products made according to specifications.

Mr. CALLAWAY. Well, all of our goods for the Government are made under contract. For instance, we would not make one yard of mail-bag duck, Government specifications, for stock.

The CHAIRMAN. No.

Mr. CALLAWAY. You understand, of course, that we can not make it until we sell it. When we sell it we have sold it by contract, and that contract provides for this special grade. It is made up under special specifications for the Government. No one else would want it.

The CHAIRMAN. And under this section 2, whether it be made for mail-bag supplies, whether it be made for sails for vessels, or whether it be made for tent flies for the Army, it is exempt.

Mr. CALLAWAY. You could construe that bill almost any way you wanted to, then, could you not?

The CHAIRMAN. I hope you are getting orders from either Japan or Russia, or both; or, if not, I hope you may.

Mr. CALLAWAY. Well, we are doing a nice business, and we want to continue to do a nice business.

The CHAIRMAN. And it is all exempted under section 2.

Senator NEWLANDS. Do you think that is a doubtful construction of this section 2?

Mr. CALLAWAY. I do not know; we are manufacturing goods for the Government under special specifications.

The CHAIRMAN. Your product is exempt.

Mr. CALLAWAY. They are not goods they buy in the open market, because they are not for sale in the open market.

The CHAIRMAN. They could buy cotton duck in the open market.

Mr. CALLAWAY. But they could not buy the kind they use in the open market. There is none of the kind they use for sale in the open market.

The CHAIRMAN. And therefore we add that whether made according to particular specifications or not it is still exempt.

Senator NEWLANDS. Do you not think this language would apply to your case?

"Nothing in this act shall apply to contracts * * * for such materials or articles as may usually be bought in open market, whether made to conform to particular specifications or not, or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not."

Just take that latter part; I will simplify it:

"Nothing in this act shall apply to * * * the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not."

Mr. CALLAWAY. I will ask you what this bill does apply to, then.

The CHAIRMAN. I think it would apply, so far as the three years of hearings before us are concerned, to Government vessels, to these large marine engines, probably to large trains in the navy-yards, perhaps to heavy 30-ton mortar carriages. Beyond that I have not, in three years' hearings, anything in mind to which I could say this bill really would apply. I do not mean to say that there are not other things, but they are not numerous.

Mr. CALLAWAY. Why would it not be a good idea, then, to specify those things and make it clear?

The CHAIRMAN. That would be unconstitutional, in my judgment.

Mr. CALLAWAY. Well, if that is all it is, it is unconstitutional just the same, whether you hit it straight or go around the tree for it; is it not?

The CHAIRMAN. No.

Mr. CALLAWAY. I can not see the difference if it has the same effect.

The CHAIRMAN. A general law and a special law are upon an entirely different basis.

Mr. CALLAWAY. Are you sure the Supreme Court will construe this bill as you do?

The CHAIRMAN. I can not be positively sure of what anybody else will do.

Mr. CALLAWAY. Then I will ask you to give us the benefit of the doubt.

The CHAIRMAN. I am exceedingly confident, however, that in no fashion and in no court anywhere would it apply to the manufacture of such goods as you have described.

Mr. CALLAWAY. If I manufacture cotton duck that is used on one of these large vessels, in completing that vessel——

The CHAIRMAN. It is exempt, clearly exempt.

Mr. CALLAWAY. If I make cotton duck on special specifications for the Government?

The CHAIRMAN. It is clearly exempt.

Mr. CALLAWAY. According to your construction it would be exempt?

The CHAIRMAN. Absolutely.

Mr. CALLAWAY. But you are not sure that the Supreme Court would construe it as you do?

The CHAIRMAN. You do not want me to say that I am absolutely sure what anybody else would do, do you? I am very confident of it.

Mr. CALLAWAY. Well, that is the reason I want to give myself the benefit of the doubt—so that if the Supreme Court does not construe it as you do we will not be adversely affected.

The CHAIRMAN. I do not think you will find any sensible lawyer who, while perhaps differing with the policy of this bill, will not concede that what you manufacture would be absolutely exempt under section 2.

Mr. CALLAWAY. Under a bill drawn like this?

The CHAIRMAN. I personally have no doubt that the Supreme Court would think so; but my assurance of what any court would do would be a merely perfunctory statement, to you or anybody else.

Mr. CALLAWAY. Yes, sir. You would not want to underwrite or guarantee anything to that effect, then?

Senator NEWLANDS. You enter into a direct contract, do you, with the Government?

Mr. CALLAWAY. With the Government; yes, sir.

Senator NEWLANDS. You do not act as a subcontractor?

Mr. CALLAWAY. With the Government; and we do as a subcontractor, too. We make mail-bag duck, which we supply to the men who make the mail bags, you understand. We sell the duck to the manufacturer of the mail bag, but the Government sends us the Government specifications, and our goods must come up to them. If anything is wrong, the mail-bag manufacturer gets out of the breach, and we deal right with the Government on the question whether the goods come up to the specifications or not. Those goods are absolutely not in the open market; they are not for sale; they are not made by any mill; you can not go out and buy them. They are all made up after they are sold, on contract, under special specifications.

The CHAIRMAN. I am sure, Mr. Callaway, that you need have no apprehension that this bill will in any wise affect your products.

Mr. CALLAWAY. Of course, if you are sure that that is true——

The CHAIRMAN. That is true.

Mr. CALLAWAY. But you know my experience has been with things drawn a lot tighter than this that I have seen lawyers get up and change them on me, and I could not stop them. That bill looks to me as though you could make almost anything out of it you wanted to. Of course, this is out of my line, but I have seen lawyers take a thing drawn a lot more strictly than this and change it on us. I think you

can take that bill and prove anything you want to with it—both the round and the flat.

Senator NEWLANDS. Mr. Callaway, the other day there appeared before us a gentleman from your State who did not object so much to the particular application of this bill to the cotton industry as to the general tendency of this legislation in the way of fixing by law what should constitute a day's labor. Do I understand that the cotton manufacturers of your State are opposed to all regulation by law of the question of labor?

Mr. CALLAWAY. I can not speak for the cotton manufacturers of my State; I am opposed to laws of this kind in general.

Senator NEWLANDS. In general?

Mr. CALLAWAY. In general, personally; yes, sir.

Senator NEWLANDS. Either Federal or State laws?

Mr. CALLAWAY. Yes, sir.

Senator NEWLANDS. Does your objection apply to legislation controlling the sanitation of factories?

Mr. CALLAWAY. I think that if a law of this kind should be made, it should be made by the States, because different localities have different advantages and different conditions. Like the tariff question, it is pretty nearly a local issue.

Senator NEWLANDS. But with reference to State legislation, do you object to legislation that would control the sanitation of factories?

Mr. CALLAWAY. Why, I do not know that I do, although I do not know that that bears on this case, does it?

Senator NEWLANDS. Do you object to legislation that controls the employment of child labor?

Mr. CALLAWAY. I do.

Senator NEWLANDS. That objection is generally entertained by manufacturers in Georgia, is it not?

Mr. CALLAWAY. Why, I could not say.

Senator NEWLANDS. And a bill to that effect was beaten in the last session of the legislature, was it not?

Mr. CALLAWAY. Yes, sir; in the last session of the legislature. But right there let me say that the manufacturers in southern Georgia do more than that bill contemplated.

Senator NEWLANDS. Voluntarily?

Mr. CALLAWAY. Voluntarily.

Senator NEWLANDS. Yes; I understand.

Mr. CALLAWAY. And it is done and carried out.

Senator NEWLANDS. What they insist is that they will attend to these things themselves and that there is no necessity for legislation?

Mr. CALLAWAY. That is right; yes, sir.

Senator NEWLANDS. And that it is unwise to legislate upon these things?

Mr. CALLAWAY. Yes, sir.

Senator NEWLANDS. The objection goes a step farther than the objection to legislation regarding child labor, then. It goes right to the root of the question as to whether the law, either State or national, should fix the number of hours that should constitute a day's labor.

Mr. CALLAWAY. I object to labor monopoly just as I do to industrial monopoly or to any other monopoly. I think the plain common people in the middle make the grist whether you use the monopoly of capital or the monopoly of labor.

Senator NEWLANDS. Then I want to ask you how you are going to equalize the conditions between the various States of the Union. If a State like Massachusetts yields to the demand for what is called enlightened legislation upon these subjects, and controls (as is done in Germany and elsewhere) the sanitation of factories, and compels better construction with a view to the health of the employees, and also controls the question of child labor, and also goes to the extent of limiting the number of hours that shall constitute a day's labor, will not that State in the end be the victim of its own enlightened legislation, and will not the industries of that State necessarily drift to States like yours where there is no such enlightened control?

Mr. CALLAWAY. We have no objection to the people in Massachusetts making any laws they see fit. If they want to walk on their hands or their heads, that is their business. We do not object to or offer any criticism of what they do in any other State.

Senator NEWLANDS. And you do not object, of course, to the advantage that Georgia would get in manufacturing over a State with such laws?

Mr. CALLAWAY. We have some natural advantages down there that God gave us, and we would be foolish not to take advantage of them.

Senator NEWLANDS. But you would also have the advantage of being free from the restraints of legislation, while Massachusetts would be subject to those restraints.

Mr. CALLAWAY. I think it is Massachusetts's misfortune that she allowed labor monopoly to control, then.

Senator NEWLANDS. You think, then, that all this legislation, the legislative tendency of the day, as exhibited in the legislation of Massachusetts and in that of Germany and France and other countries, tending toward the improvement of the conditions of labor, is bad?

Mr. CALLAWAY. I do not think it tends toward the improvement of the conditions of labor. I think these bills are brought up by the labor leaders with the idea of making a monopoly of labor, and a monopoly of any kind is a bad thing for the majority of the people.

Senator NEWLANDS. Well, I was surprised to find, recently, that in Germany they have apparently gone even farther than in this country——

Mr. CALLAWAY. But we are not an imperial Government like Germany, you know.

Senator NEWLANDS (continuing). In the way of bettering the conditions of the laboring classes in the factories.

Mr. CALLAWAY. You know this country was made out of people leaving those countries on account of a great many things that they did not think were to their advantage. That is what made this country. Our people in Georgia came over with Oglethorpe on account of the persecutions in England.

Senator NEWLANDS. So you would regard that legislation over there as a persecution, would you?

Mr. CALLAWAY. I regard this legislation here as bad legislation; yes, sir. We are getting along very nicely in our country, and everybody is contented. We do not have the strikes that you have up here. We do not have the wrangles that you have up here. We are in nice shape, and we want to continue so. If they have made mistakes up in the North, why we are late in getting into the game, and we ought to improve our conditions by profiting by the mistakes the other fellows have made. If we do not, there is no use in observing them.

Senator NEWLANDS. You know that there is a movement in Massachusetts to have a constitutional amendment adopted that will give the control of the hours of labor throughout the entire country to the National Government. You have heard of that, have you not?

Mr. CALLAWAY. Oh, yes, sir. Massachusetts is something like the fox that had his tail cut off and then wanted all the foxes to have their tails cut off because he thought it was the style. I am sorry for the man who has got his tail cut off, but I don't want to join him.

Senator NEWLANDS. So you think Massachusetts is an object of commiseration because of its legislation?

Mr. CALLAWAY. I know that a great many of the manufacturers of Massachusetts are building mills in Georgia, and there is where they are making their dividends.

Senator NEWLANDS. Yes. Now, when you speak of persecutions, do you not refer to the persecutions of the manufacturers? Would you apply that term, so far as the laborers themselves are concerned, to this legislation?

Mr. CALLAWAY. Why, certainly. I would not favor persecution of labor any more than persecution of any other kind.

Senator NEWLANDS. No; but I mean to say, would you regard this legislation that is intended to protect labor, to improve the sanitation of factories, and to limit within a reasonable time the hours of people employed in the factories, as a persecution of the laborers employed in those institutions?

Mr. CALLAWAY. Why, probably this crowd right here would disagree as to what would be a reasonable time, just as in the case of determining the value of real estate.

Senator NEWLANDS. I simply want to ask you whether you regard such legislation as a persecution of the laborers or of the employers?

Mr. CALLAWAY. I do not favor any law that would say that I should not work over a certain number of hours a day. For the last fifteen years I have worked fifteen or sixteen hours a day, for 313 days in the year; and I am glad that I had the health and was able to find the work to do. I would not have appreciated a law in our country that would not have allowed me to have done that work. I wanted to do it.

As far as sanitation is concerned, the sanitary conditions of the mills in the South are a great deal better than in the case of those in the East, because they are all new mills. A mill that was just built this year is naturally better than one built fifty years ago, because the builders have profited by the early errors. What we hope to do in this labor question in our country is to profit by the errors that have been made before.

The CHAIRMAN. That is all, is it, Mr. Callaway?

Mr. CALLAWAY. Yes, sir; unless there are some other questions.

ARGUMENT OF JOHN R. RADCLIFFE, ESQ., OF MILLVILLE, N. J.

Mr. RADCLIFFE. I am employed by the Millville Manufacturing Company as a bleacher, and we have done work for the Government. We are bleachers and dyers of cotton goods and linings.

We are opposed to this eight-hour law because it will interfere with our doing any work for the Government, and also because of the probable effect it would have on our State legislature in the way of its saying that we should only work eight hours on all work. That is

so for this reason: The process of bleaching cotton is one that can not be completed in eight hours, and it is one that does not take a long enough time to justify the employment of two sets of men. It requires from nine to eleven and twelve hours to complete the operation. It is a chemical action and can not be hastened with safety. Besides that, the dyeing, washing, and finishing of the goods are such intimately connected processes, one following the other, that if we were confined to eight hours in any one department, it would necessitate our shutting down five, six, or seven other departments.

We feel, of course, that our people could not live by working five hours a day. The wages paid are only enough to keep us now at ten hours; and we know, of course, that we could not live by working five hours. It would be impractical; and the profits of the concern are so small that we could not do it by hiring two sets of employees. There is no demand for an eight-hour day in our town. We have about a thousand employees, probably half of whom are working on piecework, and they resent any action toward cutting down their wages by cutting down their hours.

That is about all I have to say in the matter.

Senator NEWLANDS. Where is your business located?

Mr. RADCLIFFE. In Millville, N. J.

Senator NEWLANDS. How is it in New Jersey? Do you have any laws there affecting the sanitation of factories?

Mr. RADCLIFFE. Yes, sir; yes, sir.

Senator NEWLANDS. Controlling them?

Mr. RADCLIFFE. We have a very strict factory law.

Senator NEWLANDS. Strict inspection and control?

Mr. RADCLIFFE. Yes, sir; we are not opposed to inspection.

Senator NEWLANDS. You are not opposed to those laws?

Mr. RADCLIFFE. No, sir.

The CHAIRMAN. Do those laws extend even to the method of the construction of factories?

Mr. RADCLIFFE. Only in so far as we have to have fire escapes and sanitary arrangements.

Senator NEWLANDS. And sufficient light?

Mr. RADCLIFFE. Yes, sir.

Senator NEWLANDS. And air?

Mr. RADCLIFFE. Yes, sir.

Senator NEWLANDS. Do you have any control in New Jersey over child labor?

Mr. RADCLIFFE. Yes, sir.

Senator NEWLANDS. What is the limitation there?

Mr. RADCLIFFE. Fourteen years of age.

Senator NEWLANDS. Have you any control at all in your State over the hours of labor?

Mr. RADCLIFFE. Yes, sir; ten hours a day.

Senator NEWLANDS. Ten hours a day is fixed by law?

Mr. RADCLIFFE. Fifty-five hours for women.

Senator NEWLANDS. Fifty-five hours a week?

Mr. RADCLIFFE. Yes, sir.

Senator NEWLANDS. Six days in the week? That would be——

Mr. RADCLIFFE. They are through at noon on Saturday when they work in that way.

Senator NEWLANDS. I see. How many hours can you employ these children over 14 years of age?

Mr. RADCLIFFE. Ten hours.

Senator NEWLANDS. Ten hours a day?

Mr. RADCLIFFE. That is fixed by law; yes, sir.

Senator NEWLANDS. That would be sixty hours a week?

Mr. RADCLIFFE. Yes, sir.

Senator NEWLANDS. Prior to that regulation what were the hours of labor in New Jersey?

Mr. RADCLIFFE. Well, we have had a ten-hour law in New Jersey for eight or ten years.

Senator NEWLANDS. A ten-hour law?

Mr. RADCLIFFE. Yes, sir.

The CHAIRMAN. You say you have had that for eight or ten years. Prior to that time were the hours longer?

Mr. RADCLIFFE. Yes, sir; twelve hours.

Senator NEWLANDS. Twelve hours?

Mr. RADCLIFFE. It has been twenty years since we worked twelve hours in our town.

Senator NEWLANDS. Do you regard that change from twelve hours to ten hours as a beneficial change?

Mr. RADCLIFFE. Yes, sir; I do. I think ten hours is sufficient for a day's work.

Senator NEWLANDS. Then, do you not think that twenty years from now you will regard eight hours as a beneficial change over ten?

Mr. RADCLIFLE. Well, I am too selfish to want the Government to force that issue on us now. I do not feel like making the sacrifice which we did at that time at our place when the change was made from twelve to ten. We were stopped and cut down, and the workmen lost; and I lost, as a workman, with them.

Senator NEWLANDS. How long a time did it take for the readjustment?

Mr. RADCLIFFE. From three to nine months.

Senator NEWLANDS. Eight or nine months. And it is this period of readjustment that you dread?

Mr. RADCLIFFE. Yes, sir. I would have to learn a new business, because my process of bleaching is one that requires, as I said, over eight hours.

Senator NEWLANDS. Do you not think that something could be done in the way of a gradual reduction throughout the country from, say, ten hours a day toward eight hours, going at the rate of half an hour a day each year, or a quarter of an hour a day, say, for a number of years?

Mr. RADCLIFFE. A reduction to less than ten hours would interfere with our process of dyeing goods. We are not able to bleach goods in that time with safety.

Senator NEWLANDS. Did you not formerly think, when you were bleaching goods and employing men twelve hours a day, that that twelve hours was just as essential as you now regard ten hours?

Mr. RADCLIFFE. No, sir; we never worked more than ten hours in the bleaching department.

Senator NEWLANDS. You never did, even before the law was passed?

Mr. RADCLIFFE. I mean ten hours constituted a day's work. Of course we were working twelve and thirteen hours, but ten hours constituted a day. It always has constituted a day, for twenty-five years, with us.

Senator NEWLANDS. Even prior to the passage of this law?

Mr. RADCLIFFE. Yes, sir; yes, sir. We worked ten hours a day.

Mr. DAVENPORT. May I be permitted to ask the gentleman a question? Do the laws of New Jersey prohibit a man working more than ten hours a day, or do they simply fix ten hours as constituting a day's work?

Mr. RADCLIFFE. Our law does not prohibit it; no, sir.

Mr. DAVENPORT. But it constitutes that a day's work?

Mr. RADCLIFFE. Yes, sir; it constitutes ten hours a day's work.

Senator NEWLANDS. Has there been, as a result of the passage of that law, a general adjustment to ten hours as a day's labor?

Mr. RADCLIFFE. No, sir; we require eleven, twelve, and thirteen hours, and we are paid extra for that.

Senator NEWLANDS. You pay extra for that?

Mr. RADCLIFFE. We are paid extra for extra time—over ten hours.

Senator NEWLANDS. I see.

Mr. RADCLIFFE. Ten hours is a legal day, of course, according to law.

Senator NEWLANDS. Now let me ask you this question: Did that law have the actual effect of reducing, on the average, the hours of labor in the State of New Jersey?

Mr. RADCLIFFE. Yes; it did.

ARGUMENT OF MILLARD F. BOWEN, ESQ., OF BUFFALO, N. Y.

Mr. BOWEN. Mr. Chairman and gentlemen, I spoke last year on general lines to this committee. The association which I represent is a business body, a board of trade, which has for its principal object the gaining for our city of Buffalo and the Niagara frontier of new industries and new industrial development; and in that development we are seeking ways and means of obtaining industrial peace. We think we have succeeded beyond any other great center of the country in maintaining conditions of industrial peace.

One industry that we have established this last year is a great pottery, the Buffalo Pottery Company. In the burning of that pottery this eight-hour bill would necessarily interfere, because the experts who have in charge the burning of the pottery are necessarily employed continuously for a period of sixteen or eighteen hours. No others can attend to it except the particular ones who are watching that furnace. The conditions are so complicated that this eight-hour bill would interfere with that industry, and it is——

The CHAIRMAN. What industry is that, Mr. Bowen?

Mr. BOWEN. The Buffalo Pottery Company.

The CHAIRMAN. What do you produce, Mr. Bowen, in the works of that pottery company?

Mr. BOWEN. All classes of tableware, crockery, etc.

The CHAIRMAN. Are you not aware that the second section of this bill clearly exempts all such products?

Mr. BOWEN. You mean under the general designation of articles that can be bought in the open market?

The CHAIRMAN. Supplies, materials, and articles.

Mr. BOWEN. I think that clause is subject to so many questions, and so much litigation that may follow, that when the conditions arise where, for instance, a corner is obtained in any of the commodities,

and the goods can not be bought in the open market, it will be inoperative.

The CHAIRMAN. Can not tableware be bought anywhere in the open market?

Mr. BOWEN. At the present time it can; but the conditions may change to-morrow.

The CHAIRMAN. Has not that been true for a century or two?

Mr. BOWEN. But, as I say, the conditions may change in the purchase of hay, for instance—a contract for the purchase of hay.

The CHAIRMAN. And you are concerned lest the buying of hay should be stopped in that way?

Mr. BOWEN. I am not concerned; but I am arguing that it may arise; that the condition is illogical; that the condition is one that will probably lead to endless questions and litigation, and I do maintain——

The CHAIRMAN. You have no question that such things as supplies for an army mule are fully covered in the exceptions of this second section?

Mr. BOWEN. I simply maintain that conditions may change, Mr. Chairman, and in every line of goods that are now sold in the open market those very goods may be cornered and not for sale in the open market.

The CHAIRMAN. Do you think that would change the common-law meaning of the words "open market?"

Mr. BOWEN. Is there anything in the bill that designates and limits the meaning of those words?

The CHAIRMAN. The generel acceptation of the words "open market," as their meaning has been slowly fixed in the course of generations, is the sense in which those words would be interpreted.

Mr. BOWEN. As a legal proposition?

The CHAIRMAN. Yes.

Mr. BOWEN. I think one of the objects of one of the coordinate branches of our Government is to stop litigation, and surely that question will come up in every attempt on the part of those who are enforcing this bill.

The CHAIRMAN. Well, proceed. I only wanted to show you that it is very clear that your work is in no wise affected by this bill.

Mr. BOWEN. I am here on the broad question of the promotion of our industries. I was recently invited to a banquet of manufacturers in Toronto, Canada, and one of the questions that came up for discussion there and was discussed was the increase of manufacturing in Canada, and one of the reasons for the increase of manufacturing in Canada was given to me as the better conditions of labor. Any conditions that disturb the workingmen in the factories act as a deterrent to the industries of the country, and it is well known that many of the manufacturing establishments of the United States are moving to Canada, either in whole or in part.

Senator CLAPP. Let me ask you this question—you live on the border between Canada and the United States. It may be germane to this bill, however. Is not that due, or, at least, is it not largely attributed, to the effect of our tariff relations to Canada?

Mr. BOWEN. Largely so; but I was trying to make the point that the reason is partly the better labor conditions in Canada, the lesser liability to strikes, the lesser liability to legislation that will affect the hours of labor, the greater freedom of the workingmen. The motto

of all of our manufacturing associations is "Free shops and free men," and in Canada that is carried to a greater extent than in our country. I was told that in case of any labor troubles there—this may not be germane, but it is interesting—there is no need for an injunction to stop them; that any mayor, any magistrate, can call out the regular troops without any action of the governor of the province or any other official to quell those troubles. So all of these matters that are so favorable to Canada are taking away a good deal of the manufacturing of our country, and we want to maintain in this country a condition of industrial peace and absolute freedom of contract between labor and capital.

I am not at all against the contracts which result from collective bargaining between labor and capital. I agree with Carroll D. Wright in his assertion that that is the great ultimate way of settling all troubles between labor and capital—by collective bargaining of associations on the one side and the other. But that condition will have to come about gradually, and it is coming about very well in many of the lines of trade and will continue to do so if we will only let legislation alone. Mr. Wright recently said, in a public address in Buffalo, that legislation can not cure these evils; arbitration can not cure these evils, but that he does believe that collective bargaining will cure these evils.

I thank you.

ARGUMENT OF WILLIAM R. SMITH, ESQ., OF BUFFALO, N. Y.

Mr. SMITH. Mr. Chairman, I am connected with four manufacturing concerns that manufacture different things for the Government. I have just come from the House Committee on Labor, and there is a man there by the name of Solomon who is speaking and trying to show that a tannery could not hire its help under the eight-hour rule. He says he has the best tannery in the world. I will agree with him in everything except that part of it.

In a tannery if men could not work but eight hours a day, there would be days during the year when that rule would be very detrimental to the concern, and I do not know how a tannery could possibly do a successful business if each of its employees was allowed to work only eight hours a day.

For instance, when you start in the morning to do the flushing, baiting, and different kinds of work on the hides, it works differently at different seasons of the year. I can remember that only last Thursday or Friday our man that did the work got the water too cold. Consequently, everybody had to stay there and work five extra hours. If the men had all quit work at 5 o'clock, those skins would have had to be reworked, with a loss of certainly one-third of their value. That is one of the things in a tannery where an eight-hour law would result in a loss.

I am connected with another concern or company that does pottery work in a way. A man in the House committee, named Mr. Kelly, representing the pottery work of New Jersey, explained why a man at the head of a pottery can not leave his position. It is the same with that as it is with our leather. Those two men at the head of the concern will not give to each other the fine points that they know about doing their work. Consequently, one man has to stay on duty in a

certain way, so that the understrappers that are doing the work for him can carry out his ideas from the time he starts in curing those goods all the way through, which takes a good many hours. That man really does not work four hours out of his eighteen; but he must stay on duty and draw money for those eighteen hours.

I am also a stockholder and a director in an iron manufacturing concern, which makes iron pipe for the Government vessels. At the time of our last war, the Spanish-American war, we were running our works on ten-hour time. We were fitting out one special lot of work for the Government, and all of our men had to work eighteen hours, and as much more as we could have them do. Suppose the eight-hour law had been in force at that time—what could we have done? We could not have done anything.

The CHAIRMAN. If you will observe, sir, in section 2, it is provided that—

> The proper officer on behalf of the United States * * * may waive the provisions and stipulations in this act during time of war, or a time when war is imminent, or in any other case when in the opinion of the inspector or other officer in charge any great emergency exists. No penalties shall be imposed for any violation of such provision in such contract due to any emergency caused by fire, famine, or flood, by danger to life or to property, or by any other extraordinary event or condition.

That point has been carefully guarded.

Mr. SMITH. Yes, sir. I am very glad you spoke of that before these men as you have. We had the worst time in the world with our men at that time to keep them at work. I never had a great deal of trouble with men, but I had some trouble during those three or four months, because the men knew that we had to do pretty much as they said. I worked myself, as did my best man (who is dead, now, from overwork), twenty-four, twenty-six, and twenty-eight hours a day to carry through these contracts. [Laughter.]

Senator CLAPP. Was it not crowding a day a little to put in twenty-six hours?

Mr. SMITH. We stretched the twenty-four a little bit, but we had to stay there and get the days in. [Laughter.]

Senator CLAPP. I did not want to interrupt you.

Mr. SMITH. That is all right. But, gentlemen, that is the very thing. When those men knew we had got to get that contract through they were not obliged to work more than ten hours; we were paying them all the money they wanted, we thought, but they asked for more. We raised them from $75 to $125 a month from time to time, and should have had to keep going as long as they asked for it. Now, gentlemen, if they had known that eight hours was the limit it would have cost us, I suppose, one-third more.

If you gentlemen down here think that manufacturers can live and have a law that men can only work eight hours and do as they please with us, who are trying to build up and run these United States, you are greatly mistaken. It does not seem to me that there is any need of our talking to you about anything of that kind.

I am also interested in a cotton manufacturing concern and a rubber-belt concern. In our cotton weaving and spinning our help sit still eight hours and a half out of every ten. These looms run hours and hours, one after the other. All they have to do is simply to sit there and watch them. This belt machinery does not have to have so much attention as other fine weaving. If we were to cut the time down to

eight hours it seems to me that it would result in a loss, and I do not think you could expect us——

The CHAIRMAN. Cotton and what else, do you say?

Mr. SMITH. Cotton and rubber belting.

The CHAIRMAN. Those things are exempted from the operation of this bill in the second section.

Mr. BOWEN. But they are of a special kind.

The CHAIRMAN. Whether of a special kind or not, the bill expressly exempts those made according to particular specifications—that is, a special kind.

Mr. SMITH. Well, in our belting department we would have the same trouble with the eight-hour law.

In our iron business it would seem to be an impossibility to have our men in the vulcanizing departments get through with their work. No man can carry through a section of that work in eight hours. No two men I have ever yet seen could work together.

I will simply ask you, gentlemen, for the benefit of this country, as far as I know it, to never allow the bill to pass.

ARGUMENT OF DANIEL DAVENPORT, ESQ., OF BRIDGEPORT, CONN.

Mr. DAVENPORT. This bill, as the members of the committee well know, attempts to limit the employment of men in factories and in manufacturing concerns to eight hours a day in any one calendar day, in the matters that are covered by it.

I have no doubt that the honorable chairman and the other members of this committee have searched throughout the world for some legislation of that character. I myself was curious to investigate it. I looked through the Industrial Commission's report. I saw there the statement of the gentleman from New Zealand, the headquarters of this socialistic legislation, where they have proceeded as far as it is possible to proceed in this direction; and in not one of the places is there any prohibition on men working overtime. Eight hours a day is fixed as the day, and the wages are determined according to that length of time; but in addition to that, provision is made for overtime. If a man works overtime he is to be paid time and a half or double time, as the case may be.

I will suggest to the committee that it seems somewhat strange that the United States should be the only country in the world where legislation is attempted which prohibits the employment of men overtime. We all know that in some States, for instance in Kansas, as well as in the country at large, under the United States law men are prohibited from working more than eight hours a day upon what are known as public works. In no State have they attempted to do anything of this character. It is, of course, no answer to that objection that this is to be covered by a matter of contract. The purpose of the bill is to require the contractor to stipulate that neither he nor his subcontractor shall permit a man to work more than eight hours a day and to subject him to a penalty for it.

I say this legislation stands alone in the world, so far as I can find, and I would suggest to the committee that when gentlemen appear here in favor of this bill they be asked to point out a place in the civ-

ilized world where any such condition as that is sought to be obtained by legislation.

The CHAIRMAN. Mr. Davenport, Justice Harlan, in the case of Atkin *v.* The State of Kansas, met the objection, in the main, that I think you have been making, when he said:

"If it be contended to be the right of every one to dispose of his labor upon such terms as he deem best, as undoubtedly it is, and that to make it a criminal offense for a contractor for a public work to permit or require his employees to perform labor upon that work in excess of eight hours each day is in derogation of the liberty both of employees and employer, it is sufficient to answer that no employee is entitled of absolute right and as a part of his liberty to perform labor for the State, and no contractor for public work can excuse a violation of his agreement with the State by doing that which the statute under which he proceeds distinctly and lawfully forbids him to do."

Now proceed.

Mr. DAVENPORT That quotation is hardly germane to the point.

The CHAIRMAN. To the proposition?

Mr. DAVENPORT. Had the honorable Senator referred to the part where the honorable justice says that such legislation as that may be impolitic and unwise and foolish, it would be germane. But I am not now discussing the power of the Government to put such a provision in a contract, but the question of whether or not it is sensible.

The CHAIRMAN. You said, before you began your formal statement, that you were going to discuss the constitutionality of it.

Mr. DAVENPORT. The first thing to which I was directing the attention of the honorable chairman (who has undoubtedly investigated this matter thoroughly) is that in this particular feature of this legislation the United States Government would take a different position than has been taken by the government of any State or country in the world; and I was a little surprised when I heard the honorable Senator from Nevada (Mr. Newlands) suggest to the gentlemen that they had laws in New Jersey of this character. Why, I say to you, gentlemen, that even New Zealand never attempted to do anything of this kind. Australia never attempted to do it. Every union has a provision that its members may work overtime, and all the agreements that they make with their employers provide for overtime. But this bill cuts that off absolutely.

Now that the honorable Senator has brought up a little of the decision of the Supreme Court in the case of Atkin *v.* Kansas, I want to call the attention of the gentleman to the scope of that decision, and ask him whether he thinks it has any bearing whatsoever upon the proposition to which I am about to call his attention. That was a case which arose under a law which made it a criminal offense for a contractor or a subcontractor to permit a man to work more than the specified number of hours; I think it was eight.

The CHAIRMAN. Eight; yes.

Mr. DAVENPORT. Upon public works. It made him subject to a fine or imprisonment if he permitted it to be done.

Mr. Justice Harlan said that there was nothing in that legislation that was inimical to the fourteenth amendment to the Constitution of the United States, which, of course, was the only Federal question that arose in the case. He, however, even with that statement, qualified it by saying, "If it was not violative of the rights of the people,"

and of course he plants the decision squarely upon the principle that the United States Government is like any other employer and can exact any conditions it has a mind to in its contracts, provided, however, they do not infringe that principle.

Now, I will put to the Chairman this question—or I do not know that I can say it in that form—I put it to him as a proposition: That the Supreme Court of the United States would have held that law unconstitutional had it undertaken to punish the contractor for the crime of the subcontractor. It carefully provides that the contractor who intentionally violates the law shall be liable, and that the subcontractor who intentionally violates it shall be liable, but it never would have sustained the proposition that a law would be constitutional which made the innocent contractor responsible criminally for the guilt of the subcontractor.

The CHAIRMAN. I will answer that very frankly by saying that if the bill we had before us did that, I should vote against it.

Mr. DAVENPORT. That is it. I am quite sure the honorable gentleman would, because he is influenced by the same principles of justice that we all are. We may differ about these things, but the fundamental principles of human rights are inalienable, and they commend themselves, as the author of the Declaration of Independence said, as self-evident; you can not prove them. They do not need any proof, and you can not prove them.

What are you going to undertake to do in this bill? You say that the contractor shall be responsible for the act of the subcontractor in permitting his men to work, when we all know that in law he has no control over them. That is the fundamental thing, and in that connection I want to call the attention of the gentlemen of the committee to the language of Mr. Justice Chase, of the Supreme Court of the United States, in the case (which is familiar to you all) of Calder *v.* Bull, 3d Dallas, 388, not as expressing anything that is novel, but as so well expressing this proposition that nothing further can be said in illumination of the doctrine. He said:

"The people of the United States erected their constitutions, or forms of government, to establish justice, to promote the general welfare, to secure the blessings of liberty, and to protect their persons and property from violence. The purposes for which men enter into society will determine the nature and terms of the social compact, and, as they are the foundation of the legislative power, they will decide what are the proper objects of it. The nature and ends of legislative power will limit the exercise of it. This fundamental flows from the very nature of our free republican governments, that no man should be compelled to do what the laws do not require, nor to refrain from acts which the laws permit. There are acts which the Federal or State legislature can not do without exceeding their authority. There are certain vital principles in our free republican governments which will determine and overrule an apparent and flagrant abuse of legislative power—as to authorize manifest injustice by positive law, or to take away that security for personal liberty or private property for the protection whereof the Government was established.

"An act of the legislature (for I can not call it a law) contrary to the first great principles of the social compact, can not be considered a

rightful exercise of legislative authority. The obligation of a law in Governments established on express compact, on republican principles, must be determined by the nature of the power on which it is founded. A few instances will suffice to explain what I mean. A law that punished a citizen for an innocent action, or, in other words, for an act which, when done, was in violation of no existing law; a law that destroys or impairs the lawful private contracts of citizens; a law that makes a man a judge in his own cause; or a law that takes property from A and gives it to B. It is against all reason and justice for a people to entrust a legislature with such powers; and, therefore, it can not be presumed that they have done it. The genius, the nature, and the spirit of our State governments, amount to a prohibition of such acts of legislation; and the general principles of law and reason forbid them.

"The legislature may enjoin, permit, forbid, and punish; they may declare new crimes; and establish rules of conduct for all its citizens in future cases; they may command what is right; prohibit what is wrong; but they can not change innocence into guilt; or punish innocence as a crime; or violate the right of an antecedent lawful private contract; or the right of private property. To maintain that our Federal, or State, legislature possesses such powers, if they had not been expressly restrained, would, in my opinion, be a political heresy, altogether indefensible in our free republican governments."

The point is here: You will concede that if the State of Kansas had undertaken to declare that the contractor should be responsible criminally for the act of the subcontractor, such a law would have been declared by Mr. Justice Harlan to be unconstitutional; just as making one man responsible criminally for the act of another when he has not himself authorized it, or directed it, or countenanced it, etc., is contrary to the fundamental principles of justice; and such legislation, attempted by a State or by a Federal legislature, would be a nullity.

What kind of a bill have you here? You say to the contractor: "You shall forfeit $5 for every man that the subcontractor permits to work on any work which he has contracted for with you." He shall forfeit $5. You deprive him of his property. What is the consideration for it? Do you require the contractor to stipulate that the subcontractor shall not do that? This is a penal statute. This is a provision inserted there for the purpose of imposing a penalty upon a certain party, and I say that if this question had been presented in the Kansas case, where an attempt was made to make the contractor responsible for the act of the subcontractor in a matter of that character, the majority of the Supreme Court would have held it unconstitutional as violative of the fourteenth amendment of the Federal Constitution.

That is what is in this bill. You can not escape from it; and it seems so unreasonable and so improbable that the honorable Senator from Missouri asked me the question whether I contended that that was the fair meaning of the bill, whether it was covered by it; and I had to reply that it was covered by it, and the intent of the law is to accomplish that result.

I submit that when any gentleman advocating this bill says that the Kansas case approaches in any way the decision of the constitutional question involved in this case, he is mistaken.

The CHAIRMAN. I do not want to divert you, Mr. Davenport; but in the Kansas statute which I have before me, and which is partly given in the bill, you will find that the provisions of this first section and of the Kansas case are substantially the same. In respect of the penalty, in the Kansas case it is made a matter of both fine and imprisonment for a contractor or a subcontractor to violate the law; and the Supreme Court has said, answering, as I think your argument, that personal liberty is not impinged nor personal right violated when each man, contractor and subcontractor (as I interpolate) is at liberty to make or refuse to make such a contract; that when they make a contract with the State upon its terms, it is no violation of their liberty if it is stipulated in the contract that a certain thing shall be a violation of the law and subject to the penalty the contractor or subcontractor.

Mr. DAVENPORT. I am familiar with the decision; I have the opinion of Mr. Justice Harlan in my hand. The Kansas law is this: That if the contractor intentionally violates this law, he shall be subject to a penalty; that if the subcontractor violates it, he shall be subject to a penalty; but it does not undertake to say that if the subcontractor intentionally violates this law the contractor shall be responsible for it.

The CHAIRMAN. Where do you find the word "intentionally" in the Kansas statute? I have it here before me.

Mr. DAVENPORT. I do not know that the word is in that statute. It is in the act of 1892 of the Federal Government.

The CHAIRMAN. I know it is not in the Kansas statute.

Mr. DAVENPORT. But I am quite confident that the honorable chairman of this committee would not undertake to defend the proposition that under the Kansas law the contractor would be responsible for the act of the subcontractor. We have, outside of the Christian religion, no vicarious punishment. A man is responsible for his own acts.

The CHAIRMAN. He could not be criminally responsible in a penalty.

Mr. DAVENPORT. That is it. Now, then, what is this bill? What is it to take $5 out of a man's pocket for a violation by a subcontractor, it may be for a minute or it may be for an hour or it may be for two hours, of this law? Why, it is so abhorrent to every principle of fundamental justice that no court would sustain it; and when it is brought to the attention of men, Senators, Congressmen in the other committee, the public generally, that this is that bill every man to whom it is read revolts against it.

What decency is there in legislation which would say to the Cramps, "You shall be fined $5 a day for every man that is engaged up in the Bethlehem works or up at the Homestead works upon the work that they have contracted for with you?" I say it is violative of those fundamental principles which are referred to by Mr. Justice Chase in his opinion, and which have been made the ground for the annulment by the courts of legislation that conflicts with such principles. Why, gentlemen, has it come to this—that to elevate the condition of the workingman in this country it is necessary to resort to such unjust, such inequitable, such iniquitous provisions?

I submit that if you were sitting upon the Supreme Court bench of this nation, and a law of this character were submitted to you, you would say that in so far as those provisions of the bill were concerned it was unconstitutional.

Senator CLAPP. May I ask you a question?

Mr. DAVENPORT. Yes, sir.

Senator CLAPP. Without meaning any preference in this matter; simply a legal proposition?

Mr. DAVENPORT. Oh, certanly; certainly.

Senator CLAPP. Suppose a law authorizes some act under certain restrictions, stating that it may be done every day in the week but Sunday, and the agent of the man who procures the authority under that law to do this act violates it on Sunday; could he not be punished?

Mr. DAVENPORT. The principal?

Senator CLAPP. Yes.

Mr. DAVENPORT. No, sir; not unless he—you mean criminally?

Senator CLAPP. Yes, sir.

Mr. DAVENPORT. Oh, no; not at all. There is that fundamental principle—I quite agree with the honorable chairman that a distinction can be drawn in the case of liabilities that are entered into by the way of a contract which are not obnoxious to this principle; but I mean to say this——

Senator CLAPP. I am speaking now of something that can only be done by authority of law. Take, for instance, the liquor traffic: Could the man who ran a saloon plead that he did not know that his barkeeper sold after 12 o'clock at night in defense to a prosecution for keeping his saloon open after midnight?

Mr. DAVENPORT. I think the courts have held that he could be prosecuted.

Senator CLAPP. Yes.

Mr. DAVENPORT. That is true.

Senator CLAPP. Yes.

Mr. DAVENPORT. But, with all respect for the honorable Senator, I do not think that at all touches this proposition.

Senator CLAPP. Does it not touch this proposition? This is an important question that you raise.

Mr. DAVENPORT. Why, certainly.

Senator CLAPP. There is no question about that.

Mr. DAVENPORT. That is undoubtedly true.

Senator CLAPP. Does it not touch it, in this way? Here stands the Government with some work. It is within the province of the Government to let that work or not, as it sees fit.

Mr. DAVENPORT. Yes.

Senator CLAPP. Here stands the Government authorized to license, we will say, the sale of liquor. It may grant or withhold licenses absolutely.

Mr. DAVENPORT. Yes.

Senator CLAPP. In either case, if the condition which it imposes is accepted, does it violate a cardinal principle of inherent right? That, it strikes me, is the inquiry in discussing this bill. Your argument is certainly an interesting one, and it is a vital one.

Mr. DAVENPORT. That is to say, in a matter over which the party has absolute control, similar to the difficulty (and I am urging this upon the committee) which the committee itself, through its honorable chairman, recognized in tearing to pieces the Gardner bill, they recognized that it would be an outrageous violation of the inherent rights of the contractor that he should be responsible for the act of his agent or his employee unless he countenanced that action. He recognizes it; and he says, and says it well, that it would be of doubtful validity, to say the least.

This bill still contains that same vicious principle, because it says: "We recognize that injustice, but we will make the contractor responsible for the acts of the subcontractor, over whom he has less control than he has over his own agents and employees, whom he has power to discharge on an instant's notice and whom the law recognizes as under his absolute control."

Senator CLAPP. Yes; but eliminating for the moment the effect of such a provision upon the industrial life of the country, and narrowing it down to a naked legal proposition, the contractor at one point has absolute control—that is, when he wants this contract

Mr. DAVENPORT. Yes.

Senator CLAPP. That being the case, I want to get your opinion.

Mr. DAVENPORT. Yes, sir.

Senator CLAPP (continuing). Does not that eliminate this constitutional question?

Mr. DAVENPORT. I think not. I think it is injected into it, for the very reason of the injustice of it, which so weighed upon the committee that they disemboweled, so to speak, the Gardner bill.

Why was it that you said that this law would be of doubtful validity if it made the contractor responsible to the Government for the act of his agent or employee? There is a case; you recognize it yourself. Why, it is because of that principle that you are punishing a man for the act of another which he has not countenanced. In the case that you put, that of the liquor law, the courts, as I understand, certainly in my State of Connecticut, have held that the liquor dealer is responsible for the act of his bartender in his absence and without his knowledge, and even if he has forbidden it. But in a matter of this character you recognized in your report that that was so, and that it would be of doubtful validity.

Senator CLAPP. Well, the committee in that report may have fallen into a habit that courts sometimes do, of talking too much.

Mr. DAVENPORT. Oh, not at all. They only gave expression to the fundamental, inherent principle of decent and honorable legislation that they ought not to do any such thing as that. The trouble here is that they did not go far enough.

The CHAIRMAN. You at least admit that we made a very much better and more constitutional bill?

Mr. DAVENPORT. I admit that; but there is this much about it: The honorable chairman, in attempting to get around these objections, has injected into the bill provisions quite as objectionable, because of the obscurity and uncertainty in which he has involved the whole subject.

Senator DOLLIVER. I have heard questions raised as to whether this assessment upon the contractor for the fault of the subcontractor is in the nature of a penal assessment; and some have claimed that it was in the nature of a mere statement of liquidated damages.

Mr. DAVENPORT. I will say that I have also heard that suggestion made. I have only to refer the honorable Senator and the other members of the committee to the long line of decisions of the Supreme Court of the United States upon that subject. Take, for instance, the State legislation in regard to failure of a railroad company to fence its tracks. Suppose an animal is killed on the track. Under the laws of some States it is provided that double damages and treble damages might be assessed; and the question went up to the Supreme Court of the United States as to whether that was not depriving a man of prop-

erty without due process of law; that all the man was entitled to recover was what the animal was worth, and to subject him to double and treble and quadruple damages was depriving him of his property without due process of law. The Supreme Court of the United States sustained that legislation upon the ground that it was penal legislation. Just as I said the other day when I was talking before you in regard to punitive damages or smart money, where, in cases of willful misconduct or gross negligence on the part of a person, the damages are by way of punishment as an example to the offender. In the celebrated case of C. P. Huntington against somebody, which came up, Mr. Chairman, from your State——

The CHAIRMAN. Against Atwell.

Mr. DAVENPORT. Yes. They illustrated the distinction between what are called penal statutes in private international law and penal statutes as they are regarded in domestic jurisprudence. Of course, if you care to investigate that matter, you can see it fully discussed. But we start right here—that the Supreme Court of the United States has said over and over again that legislation which imposes upon a person a penalty for something where there is no property damage or property loss is of a penal character, and the Supreme Court of the United States, I humbly submit, would so construe this statute.

The CHAIRMAN. Just there, Mr. Davenport. I have waited because I did not want to divert your statement.

Mr. DAVENPORT. Thank you; that is all right.

The CHAIRMAN. This limits the liability of contractor and subcontractor to the penalty of $5, as you have said. The contractor makes an express contract with the Government, and this stipulation is incorporated in this contract.

Mr. DAVENPORT. Yes.

The CHAIRMAN. The subcontractor makes not an oral but an express contract with his contractor, and incorporates in it this provision, and stipulates that he will respond to the contractor for any violation of this stipulation that any workman shall not be required to work over eight hours upon Goverment work.

Mr. DAVENPORT. Yes.

The CHAIRMAN. So that when the penalty is inflicted upon the contractor, he is in privity with his subcontractor, who has stipulated to abide by and to have abated from him the same penalty for his subcontractor's violation of the stipulation in the contract of the contractor and in the contract of the subcontractor.

Mr. DAVENPORT. Quite true.

The CHAIRMAN. That is the policy of this bill. Now, in the Kansas case that liberty of contract, exercised by both the contractor and the subcontractor, is a liberty which they can exercise by refusing or accepting the contract. If they accept it they are simply bound by that which they had the liberty to enter into or to decline, and Justice Harlan says that this is no violation of any man's personal liberty, nor is it any deprivation of due process of law when a man is held to the penalty of the violation of his own contract, as under this bill.

Mr. DAVENPORT. I will not attempt to discuss that point with the honorable chairman. Let me say, as I have attempted to say hitherto in this matter, that Justice Harlan of the Supreme Court of the United States never advanced any such proposition as that.

The CHAIRMAN. I think it is there in what I read.

Mr. DAVENPORT. I think not; and of course what is there is in the decision. But let me now remind the chairman, while his mind is upon that phase of the matter, as I said the other day, that when it comes to the controversy between the contractor and the subcontractor as to the determination of their rights, this bill will not in any sense determine it. This relates to the provisions of the original contract. The contractor is left to protect himself as best he can; and the only way he can do it is by a provision in his contract or by taking a bond. And when the proper officer of the Government and the head of the Department and the Court of Claims have decided, as against the contractor, that he has violated it, and that the subcontractor has violated it, and has withheld the money, that does not protect the contractor against an action by the subcontractor, because the subcontractor can say: "I did not do it. I fulfilled every stipulation of my contract." Or he can say: "You have waived that condition;" and be brings a suit in the State court or in the Federal court, where the trial of that question is by jury; and, as I said the other day, you put the contractor between the upper millstone of the Federal Government and the lower millstone of the subcontractor on those matters.

But we are all lawyers here, and I want to direct the attention of the committee particularly to these constitutional provisions. I will not undertake, of course, to insist that my construction of this is correct. Men may differ upon that point. But I submit to you, gentlemen, that there is involved in that provision of this law by which you seek to deprive the contractor of his money for the fault of the subcontractor, of which the contractor is or may be entirely innocent, a violation of those fundamental principles.

I have another suggestion to make, gentlemen. We are having a very interesting practical application up in my country of this eight-hour business. The New York, New Haven and Hartford road, as you know, is a great railroad system, and emloys a great number of machinists in its shops. On account of the falling off of business they determined that they would either shut their shops or give to their employees the privilege of working eight hours a day, and the employees accepted it. Now they are engaged in a controversy with the same employees, who are demanding that the hours of labor be extended to nine. It is not because they want to work nine hours a day when they can just as well work eight and get the same money, but because they find they can not get the same money working for eight hours as they can get for nine. So they have petitioned and they have demanded of the officers of that road that they lengthen the hours of the working day from eight to nine; and I want to read to you an extract from the paper which is interesting in that connection:

"New Haven car workers know that an eight-hour day means lower wages. According to representatives of the local labor unions, the demand of the 3,000 car workers on the New York and New Haven Railroad that the eight-hour workday be changed to nine hours does not mean that the limit of a short day has been reached by the men, and that hours are again on the upward turn. James Wilson, delegate of the New York local of the International Association of Machinists, said yesterday: 'Some of the International men are working in the company's car shops. They know that an eight-hour workday means cutting wages. It does not mean eight hours' work for nine hours' wages. In this case they can not get the wages, so they want the nine-hour day back.'"

And a strike is threatened upon that great railroad system because of the conditions which have arisen, growing out of that matter.

Gentlemen, if you are going to pass a law bearing on this question, follow in the footsteps of your predecessors in other countries. Do not attempt to make it unlawful for a man to work more than eight hours a day. Do not attempt to cut off the privilege of overtime, which would not only be disastrous to the business interests of this country, but a violation of the right of every individual workingman in this country if he wants to work and the man wants to employ him. Do not do it, but attempt your legislation along the line that has been attempted in New Zealand, or attempt to regulate the wages that a man may earn by saying that eight hours shall constitute a day's work and that overtime shall be paid for as time and a half or double time.

Of course if you attempt to do anything of that kind you alter altogether the purposes and scope of this bill. But legislation of this character, gentlemen, as I said when I began, is without a precedent in the civilized world. I ask the honorable gentlemen here to turn to the report of the Industrial Commission and take the citations there from the laws of the different countries and the different constitutions, and read the testimony of the honorable gentleman from New Zealand, the member of Parliament there, who appeared before that Commission and told them what the law was. Nowhere outside the city of Washington has any attempt been made, so far as I can learn, to enact that in manufacturing business a man shall not be permitted to work more than eight hours a day if he wants to do so.

The CHAIRMAN. Mr. Davenport, I intended to do it a little later on, but while we are upon this question I will put into the record the States that have done this thing: The constitution and statutes of California; the statutes of Colorado, of Delaware, of the District of Columbia (in the code passed year before last), of Hawaii; the constitution and statutes of Idaho; the statutes of Indiana, of Kansas, of Maryland, of Massachusetts, of Minnesota (which is quite like this); of Montana, of Nebraska, of Nevada, of New York, of Pennsylvania, of Utah, of Porto Rico; and sundry statutes of the United States with which you are familiar.

Mr. DAVENPORT. Now, again, I say——

The CHAIRMAN. Also West Virginia and Wyoming.

Mr. DAVENPORT (continuing). Having that great mass of documents before him, can the honorable Senator point to a single State where they have attempted to say that in manufacturing business a man shall not work more than eight hours a day if he wants to?

The CHAIRMAN. I can not, nor does this.

Mr. DAVENPORT. Nor does it exist. That is it exactly.

The CHAIRMAN (continuing). And if this did it would be unconstitutional.

Mr. DAVENPORT. Yes.

The CHAIRMAN. And for that reason the Senate bill very largely changed the House bill—because it did that thing.

Mr. DAVENPORT. Well, this is just what you are attempting to do: You are attempting to "soak" a contractor because he does something which neither the legislature of the United States nor of any State can prohibit. You are attempting to do that. You are attempting to do by indirection what you can not do directly.

It is not necessary, gentlemen, for me to refer you to the favorite and famous saying of Doctor Franklin, that if a man or a party or a

government will not listen to reason, she will soon make herself felt. When you attempt to put upon the statute book a law without any rational theory, and under which reasonable practice is not possible, those that attempt to do it and the Government itself will be the sufferers.

The CHAIRMAN. Mr. Davenport, you do not undertake now to say that this bill in any wise prohibits a man from working more than eight hours in any other employment than that employment, the terms of which he stipulates by contract with the Government to fulfill?

Mr. DAVENPORT. Of course it does not apply to anything that is not within its provisions; but this is what it does: It inflicts a penalty upon a man permitting another man to work more than eight hours a day, no matter whether the work is hard or easy, whether it is healthy or unhealthy. It imposes a penalty upon that man for permitting it to be done.

Let us suppose that we are in Bridgeport, Conn., in the works of the Union Metallic Cartridge Company, or the American Ordnance Company, or the Bullard Machine and Tool Company, where they do work for the Government. Here is a job to be done. A workman comes along. He has worked his eight hours. He has a family to support. He wants the money. His employer says: "I want this word done; it is light work," etc. "I would be glad to have you work more than eight hours a day. I would be glad to pay you overtime, if necessary, but I am not permitted to do it."

Is not that depriving that workman of his opportunity——

The CHAIRMAN. But if the contractor has agreed voluntarily to do that thing, he has exercised his own free will in making that contract.

Mr. DAVENPORT. That is aside from the question.

Senator CLAPP. Just a moment. The counsel's point there goes, not to the contractor, but to the workman himself, as I understand.

Mr. DAVENPORT. Why, I say that this is what you are doing by indirection: You are taking away from that man the opportunity of working. Now, I took occasion——

The CHAIRMAN. But that is by reason of the contract his employer has made. He is at liberty to work eight hours more in the same shop on anything else.

Mr. DAVENPORT. It is by reason of the unjust action of the Federal Government in saying to the employer "You shall not permit him to work if he wants to." Now, as I say——

The CHAIRMAN. Not on that contract; that is all.

Mr. DAVENPORT. I know it. Now, see how absurd that is. As I said to the committee, in your attempts to save this bill are just like a strong man struggling in a morass—every effort to extricate yourselves only sinks you deeper and deeper, in your struggles.

As I said before in the other committee, here is a bill which, in its attempt to deprive the contractor of his opportunities and his privileges, really strikes at the vital thing, the privilege of the individual workingman. That is what is the essence of this bill. These men are not concerned about the value of the article, the quality of the goods, or anything of that kind. What they are concerned in doing is in restricting the number of hours of labor, for the reason, probably, that it will give other people more opportunity to work. That is its purpose. It is, as I say, of a socialistic character. It is an attempt by the State to regulate these things by direct invasion of the right of the individual.

But, as I say, I took it upon myself to say before nat committee the other day that in the occupation I have had in connection with the formation of this association for the purpose of protecting its individual members from being boycotted and ruined, I have had occasion to go through this country and interview the managers of a great many of our establishments. I have been in those establishments, and I have talked with workmen. Wherever I have been, wherever I have talked to a workman, whether in the prosecution of that business or anywhere else, when I have put this question to him squarely: "Would you be in favor of a law which would deprive you of the right and privilege of working more than eight hours a day if you wanted to, if your family needed your money, if you were not too weak to work—would you be in favor of it?" I never found one that said he was in favor of it.

Now, that statement was challenged; and I expect that the honorable representative of the International Association of Machinists proposes to introduce, somewhere, certain resolutions in regard to the matter from the city where I live. I say that is a fact. No more would the honorable Senator cheerfully and willingly accept a command that he should not exercise some liberty that he has which is not injurious to him or anyone else. Will the working people of this country do so?

I say, gentlemen, speaking in all earnestness and sincerity, and to you as public men, representing this country, and knowing that you desire not only what is for the best interests of the country but according to what the great mass of the people want, that if you pass a bill of this kind, if it becomes a law, the working people of this country will not only not thank you, but they will resent it. Of course, these are certain considerations, the weight which may be given to them rests with you. But if you were to act on this matter as you would in any other matter, gentlemen, what would you do?

Have you attempted to ascertain whether it is hurtful or not for a man to work more than eight hours a day? Have you considered whether or not the great mass of workingmen covered by this bill are injured by working more than eight hours a day? If you are not fully informed upon that subject, what is the natural means for you to take? The United States Government would, if requested, institute an investigation. It is not like the case in Utah, where the courts said that in the case of men working underground and in copper-refining establishments, it is a matter of common knowledge that their employment is or may be of an injurious nature. You would, if you were acting as sensibly and judiciously as you would in any other matter, institute an inquiry.

Suppose you came up to my city of Bridgeport, which has 80,000 people in it, and is a manufacturing city; suppose you appointed a commission and went there and investigated the conditions, to find out whether or not working more than eight hours a day is injurious to the workman. What do you think you would find? You would find the opposite.

But I say that the Committee on Education and Labor of the United States Senate ought not to take a step of this kind unless it has ascertained that there is something in the character of working more than eight hours a day which is injurious. Otherwise, it is a gratuitous invasion of the liberty not only of the employer, but of the employee.

I thank you, gentlemen, for the very courteous hearing you have

given me. I want to say, in conclusion, that I believe that in the great State (small in numbers, but great in manufacturing) from which I come, the State of Connecticut—which, as the gentleman from Georgia said to-day, has grown to its present condition by the energy of its people, acting under freedom—if you were to go through that State and ask the members of the unions, whose constitutions all provide that men may work overtime, recognizing the economic necessity for it, and recognizing their own interest in it; if you went among the great numbers of the nonunion workingmen, who vastly outnumber in the mechanical industries the members of the unions; if you went among the farmers; if you went among the business men, you would not find one in a hundred that would be in favor of legislation of this character.

It is a very serious matter to those people up there. I was very much interested in the statements that were made by the gentlemen who are nursing the industries of Georgia and the South. Up in New England we have other conditions and other difficulties to contend with in order to maintain not alone our supremacy but our very existence. And the enactment of laws of this character, gentlemen, is so repugnant, not only to the views of the gentlemen who control those industries and whose representative I am here but to the great mass of the people, that I, myself, am unable to predict the consequences of the enactment of such a law upon public sentiment in those places.

(The committee thereupon adjourned until Tuesday, March 29, 1904, at 10.30 o'clock a. m.)

WASHINGTON, D. C., *March 29, 1904.*

The committee met at 10.30 o'clock a. m.

Present, Senators McComas (chairman), Clapp, Burnham, Gibson, and Newlands.

ARGUMENT OF JOHN MACINTYRE, OF PHILADELPHIA, PA.

The CHAIRMAN. Will you state your name?

Mr. MACINTYRE. My name is John Macintyre. I am from Philadelphia, Pa. I represent the Typothetæ of Philadelphia, which is an employing printers' association. It is a local branch of the Typothetæ of America. We are especially interested in this matter, because we recognize that if this bill is enacted into law it gives, to a very large extent, an entering wedge to a proposition which has been before our State for some years past, as the outcome of an agreement entered into at Syracuse in 1898, between the National Typographical Union and other international unions represented in our trade and our organization.

We entered into an agreement at that time with the understanding and on the definite statement of the advocates of such an agreement that it would not materially lessen our product and would not materially affect our investments, but would give us practically increased prosperity. Among the chief supporters, as I understand it, of those who are laboring with your honorable committee in endeavoring to obtain the passage of this bill is the Typographical Union, which has great weight and influence throughout the country, and especially in the large cities.

In Philadelphia we are interested in the measure because we have, in the printing business, some Government contractors with large plants. You are going to put to them a proposition that, in making their contracts with the Government, they must operate on an eight-hour basis.

The CHAIRMAN. What do those firms furnish to the Government?

Mr. MACINTYRE. They are contractors for furnishing supplies to the Post-Office Department.

The CHAIRMAN. For furnishing printed matter?

Mr. MACINTYRE. For furnishing printed supplies, blank books, and all manner of Government supplies.

The CHAIRMAN. Government supplies are expressly excepted from the operation of this bill.

Mr. MACINTYRE. In what sense?

The CHAIRMAN. They are excepted by the second section of the bill. We will hear you with pleasure, but we want you to know that you are not affected by the bill.

Mr. MACINTYRE. I understand that such an interpretation has been put upon the bill; but the interpretation put upon bills of this kind in the preliminary stages are seldom adopted when the law comes to be finally interpreted by the courts.

The CHAIRMAN. You stated that they were furnishing blank books of various forms and supplies of various forms.

Mr. MACINTYRE. Yes.

The CHAIRMAN. Government supplies, whether made to conform to particular specifications or not, are excepted from the operation of this bill; there is no question about that. That, however, is no reason why you should not be heard. I only want to relieve your mind on that subject.

Mr. MACINTYRE. I do not know that you have relieved my mind, because after looking over the bill and carefully inspecting it we find that we are affected. If the Government fathers this movement, and insists to any extent on an eight-hour day basis in their contracts, it will undoubtedly affect the entire commercial output of this country.

The CHAIRMAN. Then what you mean to say is that you object to the tendency of this bill?

Mr. MACINTYRE. We object to the tendency of the bill.

The CHAIRMAN. And although it does not affect your industry, you object to that tendency?

Mr. MACINTYRE. I still can not admit that it does not affect our industry. We feel that it does, and I feel so. Although the second section of the bill will relieve our minds as to responsibility under this bill, yet we know that the unions have come here with the express determination of having an eight-hour day at a certain given time. They have frankly told us that when they get the eight-hour day they are going to demand a seven-hour day, and then a five-hour and a four-hour day.

The CHAIRMAN. That is absurd.

Mr. MACINTYRE. I know it is absurd.

Mr. MORRISON. May I ask the gentleman what labor leader made such a statement as that to him?

The CHAIRMAN. I will ask the question: Can you mention any representative of any labor organization who said that they were going to ask for a four-hour day?

Mr. MACINTYRE. I can.

The CHAIRMAN. Will you state who it was?

Mr. MACINTYRE. The statement was made by representatives of the Pressmen's Union and representatives of the Typographical Union.

The CHAIRMAN. Can you name any of them?

Mr. MACINTYRE. Yes, sir; I can.

The CHAIRMAN. You may name them.

Mr. MACINTYRE. I do not believe it is necessary to mention them by name.

Mr. MORRISON. I would like to know the names, because a statement has been made here reflecting upon the organization which I represent.

The CHAIRMAN. If you can and will, you may state the names.

Mr. MACINTYRE. I do not think it is necessary I should mention the names; but I can say, for the information of the gentleman, that the statement has been made by local labor leaders in Philadelphia, and also by national labor leaders of both of those organizations, in my office, and in my presence. With that information he should be able to readily distinguish who they are.

The CHAIRMAN. Do I understand that you decline to state the names of any persons who made such statements to you?

Mr. MACINTYRE. No; I do not decline to state them. If the gentleman would like to have them, personally, he can have them.

Mr. MORRISON. I want them for the information of the committee. This is a public question.

The CHAIRMAN. This is the first time that I have heard a specific statement of that kind and I am curious, and perhaps the committee also is, to know who made such statements.

Mr. MACINTYRE. The statement was made once by Mr. Martin P. Higgins, president of the International Printing Pressmen's Union. It was made by the chairman and members of the Typographical Union in Philadelphia, headed by Mr. Ernest Croft. I may say also that the statement is further substantiated by the fact that Mr. Higgins is vice-president of the International Typographical Union, and he indicated that such was the tendency, and stated that it was well known and thoroughly understood that the tendency of labor unions at the present time was not only to limit the hours of labor, but to limit production.

About a year ago in the city of Washington the Typographical Union approached the commercial employers of the Typothetæ of Washington with a demand for an increase in wages and a contract for an eight-hour day, at a specific period. The union in this city is principally composed of employees in the Government Printing Office. The commercial employees are a very small minority in that union. When the proposition was put forth it was referred to myself, with others connected with the National Typothetæ of America. In studying this condition I found that two conditions existed here which employers, in commercial life, had to face. In the first place the majority, if not all, have to supply the District of Columbia with more or less printed matter. The facilities of the city must be drawn upon in order to get the supplies necessary. There does not seem to be the requisite facilities in the Government Printing Office or in the adjacent towns to get the required product at the time it is most needed. Therefore, the local employers are drawn upon every once in a while to a very large extent. Apart from that, the condition of

the printing trade in this city is that the city does not offer a very large volume of commercial business, and therefore the printers of this city have to go outside to obtain business. As the result, they have to compete with printers in Reading, Baltimore, Philadelphia, and other cities within a radius of probably 250 miles, in order to obtain sufficient business to keep their plants in operation. They are situated under peculiar conditions, and if they have to conform to the requirements of such a law as this, they would be required to run a part of their business a certain number of hours a day, and another part for another certain number of hours.

It is admitted that they must get a certain volume of business daily in order to make their plant productive and pay them interest on the capital invested, to say nothing of profit. That condition is not peculiar to this city, although you probably feel it more keenly here than we do in other centers.

Take such a concern, for instance, as the Dunlop Printing Company, of our city. They are contractors with the Post-Office Department and have a very large plant in the city of Philadelphia. They do considerable printing for the city, and therefore would have to meet certain local conditions because their Government contracts would not supply them constantly with a sufficiency of work to keep their plants in operation. They could not afford to keep their organization perfect in order to do Government work.

It is essential in the printing and publishing business that we should have an investment representing many thousands of dollars in machinery, and, in order to make that machinery of use in our ordinary everyday business, we must keep a permanent organized force of labor attached to it. If we must face conditions which compel us to come into the market and endeavor to secure Government work under restrictions like this, we will be in the position of having our investment subject practically to the will and whim of the Government and to the supply and demand that the Government may have for the time being. The Government may be a very desirable customer under some circumstances, where a vast quantity of work is necessary to be done under high pressure; but it is like any other large commercial business, the demand fluctuates; and the man who would pin his faith in operating his plant, to any great extent, upon Government work alone, would be at a very serious disadvantage with his competitors in endeavoring to meet prevailing conditions.

The CHAIRMAN. How many hours a day do the printers in Philadelphia work?

Mr. MACINTYRE. Nine hours a day at present.

We realize that if the Government fosters such a thing as an eight-hour day on every contract given out by the United States, that the labor leaders will go among the workingmen with the strong argument that the Government demands and insists on it; that it is necessary to them; that they believe in it; that it is the practice, and that if the Government can get along with it certainly the other fellow can get along with it.

If I as an individual felt that it was wise; if I felt that by agreeing to a proposition like this I was going to do nothing to restrict my own opportunities for advancement; if I felt that by inaugurating and standing behind a bill of this kind I would be offering to myself, as well as to my fellow-man, better opportunities, I certainly would feel

that the Government had a very large interest in this subject. But I can not see how the honorable gentlemen who are considering this question and those who have most warmly advocated it can reconcile the conditions. On the one hand we create and build up the Government and conduct the affairs of this country. The Government requires for the use of its officials and departments articles which must be produced by a combination of brains, capital, energy, skill, and knowledge not common to the few, but which are every man's right, provided he will apply himself. Every American citizen is a taxpayer, and is therefore doing his share to sustain and uphold the Government which has been created; and yet that Government, which he has created, is going to come to him and say, "Here, you are going to enter into a contract with us to supply certain material, and we are only going to allow you to do it within prescribed lines."

I think the provisions of this law require very careful handling. I do not see that the law, constitutionally, legally, or in any other way, has the right to come to me as an individual and say: "Mr. Macintyre, you must not under any circumstances work more than eight hours a day in producing this article." I have spent my lifetime learning how. I have put all the ability and all the skill and whatever money I have accumulated into making and getting that article out. It is a necessary article for the Government; and yet I am told that unless I will come down to an eight-hour basis I can not supply to the Government, at a fair price, any of my products. Where is the justice to me, as an individual, in such a provision? Have I not the right to dispose of my labor as I see fit, so long as I do not conflict with the proper existing laws of mankind, legal and moral? I am doing myself no injustice, and I am doing my fellow-man no injustice.

The CHAIRMAN. There is no prohibition upon your working twice eight hours a day, under this bill, if you choose. The ony prohibition is that you shall not work more than eight hours for this one employer, the Government.

Mr. MACINTYRE. Then you put me at a disadvantage because that employer is not the only employer and is not the only buyer for my product. I will venture to say that the Government to-day, with very few exceptions, is not more than a 25 per cent customer, and in the majority of cases it is more likely to be a 10 per cent customer. It never can be otherwise so far as our trade is concerned. In this agitation for an eight-hour day we have met with so many turns and twists that while the statement of the chairman may be strong and official and have certain weight, yet it is a fact that the business men all over the country realize thoroughly that the inauguration of an eight-hour day, under the conditions set forth in this or a similar bill, so long as it is fostered by the official act of the Government, is bound to have a very great weight and influence in all manufacturing propositions. We know that it is used to-day to a very large extent in the campaign which the Typographical Union is conducting, and in which they have set Labor Day of 1905 as the day when they are going to inaugurate an eight-hour day officially, and force it on us whether we will or no.

We have, in Philadelphia alone, some 628 printing offices with a capitalization of upward of $13,000,000. We employ about 6,000 people, to whom we pay upward of $3,000,000 in wages. We have miscellaneous expenses which represent about $1,700,000 and we have

to buy material and goods during the year amounting to more than $3,000,000.

Those gentlemen, who have invested that money in a business which requires their constant care, thought, and attention, and is a tremendous strain on them in every way in order to keep it in the best possible shape, are entitled to decide between themselves and their employees just how many hours of labor they shall purchase during a day or during a week or during a year. I can not see why the Government has any right to step in and dictate to them what they shall do, when we consider that the Government is only a customer to the extent of not more than 25 per cent or possibly not more than 10 per cent. I do not think that the conditions of the printing trade are so very different from the majority of the large manufacturing interests all over the country. The men who are engaged in manufacturing in this country have put into it their capital, their brains, their skill, and their individual enterprise. We hear continuously of cases where men have spent their lifetimes, all the money they have ever had and much that they inherited in taking up some individual item which they believed to be a good paying proposition commercially and would develop the interest and welfare of this country and incidentally their own. In many cases the man who starts in is not the successful man. It is the man who follows him and takes up his ideas where he left off. It is that individual enterprise that has made this country what it is and that individual enterprise is necessary to be continued in this country. I believe that if the Government assumes this position, if it steps in and says to the manufacturer: "Thou shalt not," it is going to stop, to a very large extent, that individual enterprise which I believe is necessary for the future welfare and well-being of the country.

Gentlemen, I thank you.

The CHAIRMAN. Is there any other gentleman here who desires to be heard and has not yet been heard? There have been numerous telegrams received from gentlemen asking for a hearing on this day, but they have not appeared. I now ask if any of those gentlemen, who have expressed a great desire to be heard to-day, are present; if not, we will hear Mr. Davenport, briefly.

ARGUMENT OF DANIEL A. DAVENPORT, OF BRIDGEPORT, CONN.

Mr. Chairman, when I last appeared before the committee I inquired of the honorable Senator from Nevada, and also of the chairman, if they knew of any law in this country which was intended to prevent men from working more than eight hours a day, in any factory work. The information they gave me was similar to that I had ascertained previously in my investigations, and was to the effect that nowhere in the civilized world was there such a law. Even in New Zealand, which, of course, is the hotbed of socialistic legislation, the law permits overtime.

Since my last appearance here, however, I have ascertained that such a socialistic law has been passed, and I want to bring to the attention of the committee the law and its operation in the Republic of France. I hold in my hand a clipping which I took from the Washington Post of Sunday, March 27, 1904. It is headed: "French labor troubles—New ten-hour law does not please textile workers."

"PARIS, *March 26.*—The application of the new socialist law establishing a maximum of ten hours for labor in the department of the north is bringing out remarkable labor disturbances on the part of those employed by the large textile industries located throughout that department. The socialists thought that shorter hours would benefit the workingmen, but the workers throughout the district are organizing strikes on the ground that they want more pay instead of less work. The employers offer to give the same wages for ten hours as they have previously given for ten and a half hours, but the employees decline to accept this, and insist on more wages for ten hours than they received for ten and a half hours.

"Much disorder has already occurred. Several small establishments have been sacked, and strikers are parading the streets and country roads. Fearing a serious outcome, the Government has adopted precautionary measures, sending detachments of cavalry and infantry and several hundred gendarmes at Robaix.

"Mr. Millerand, the socialist leader, is the author of the new ten hour law."

The committee will recognize that such a law as that is an invasion of the inherent rights of men, and that the French workman is prepared to fight in opposition to it.

I have a few observations to make a little later on, in an endeavor to persuade the committee that it will not be necessary for the American workman to take up arms in defense of the right to work more than eight hours a day if he desires to do so, because of the guaranties which the Constitution of the United States has thrown around this matter.

Senator NEWLANDS. Do you understand that the French workman objects to being limited to ten hours a day of labor?

Mr. DAVENPORT. Yes; clearly so.

Senator NEWLANDS. The contention, according to the article you have just read, seems to be that they wish a higher rate of pay for ten hours than they previously had for ten hours and a half. That article would seem to indicate that they were contending for higher wages, but not for longer hours.

Mr. DAVENPORT. Certainly, because the limitation of their hours of work reduces their pay. I will not take time now to analyze what is involved in that proposition.

I stated before the committee the other day that the employees of the New York, New Haven and Hartford Railroad, 3,000 in number, including a large number of the members of Mr. O'Connell's organization of International Machinists, had demanded of the New York, New Haven and Hartford road an increase in the hours of work from eight to nine, in order that they might earn more in a day. The working time had previously been reduced by the railroad company because of slack business; and the workmen had the alternative of taking eight hours a day work or of having the work closed down altogether; and they accepted the eight-hour day. But they learned that the reduction of hours entailed a reduction of pay, and what they wanted was an opportunity to earn money; so they demanded of the railroad company that the hours should be lengthened. I have been informed that the railroad company has acceded to the demand of the workmen for a nine-hour day.

On the question as to whether or not the working people of this

country want to have their liberties restricted so that they can not earn more than they can earn in an eight-hour day, as a general proposition, I want to read before this committee a statement made before the House Labor Committee on March 29, 1900—four years ago to-day—by Mr. Mark L. Sperry, secretary of the Scovill Manufacturing Company, of Waterbury, Conn. You are probably aware of the fact that in the Naugatuck Valley, in the State of Connecticut, commencing at Bridgeport and running north to Winstead, about 90 per cent of the brass of this country is manufactured. There are immense establishments in that valley, and it is a perfect hive of industry. I wish to read from this document entitled, "Hours of labor for workmen, mechanics, etc., employed upon public works of the United States. Report of hearings before the Committee on Labor, House of Representatives; relative to limiting the hours of daily service to eight hours of workmen and mechanics employed upon the public works of or works for the United States, or any Territory, or the District of Columbia, including extracts from hearing before the subcommittee on Education and Labor of the Senate, in 1898, and the report of the Committee on Labor of the House of Representatives on the same subject in the Fifty-fifth Congress." Mr. Sperry said:

"We have about 400 hands working by the day; about 2,000 work by the piece. They work nominally by the day, but actually by the piece. They have what they call a stint (stent they call it). So much for the day's work, and after that day's work is done, they are at liberty to go if they wish to, and that stent is so calculated that the greenest and poorest hand can make a fair day's wages by working ten hours. As a matter of fact the majority of the hands who are working on the stent, finish their stent between 4 and 5 o'clock in the afternoon. About 40 or 50 of them every day take advantage of that fact and start to go home; but it is not always the same 40. The majority of them work right along, prefer to do so, although they are under no compulsion whatever to do so. They prefer to work right on for the ten hours and make a day and a quarter. And sometimes in seasons of great pressure we have to work thirteen hours in some of the departments of the works. It is rare; I don't like to do it; but sometimes we find ourselves forced to, and in that case we ask the hands to volunteer. We ask 'Who wants to work on this job,' and we generally have four or five times as many volunteers as we require I merely mention this to show you the sentiment of our hands on this subject. I have never taken their sentiments by vote, but I think I know what their sentiments are because there are a great many indications I have received from time to time.

"Another indication might be given as to their sentiments on the eight-hour bill. Shortly after the election of Grover Cleveland some hard times came on. We did not decrease our force; we did not decrease the wages, but we worked eight hours a day a part of the time and part of the time nine hours, sometimes ten hours a day, and four days in the week. And the hands, who for the most part had been voting the Democratic ticket, attributed this decrease in time to Democratic success, and they turned round and elected W. P. Sperry, a Republican, in a district which was naturally 2,400 Democratic majority, and they turned over the election in our town, where we have virtually 1,200 or 1,500 Democratic majority, all because they got an idea

that the eight-hour time was in some way connected with the Democratic success."

As I have already told the committee, I have been a Democrat and concerned in Democratic politics in Connecticut for a good many years. One of the difficulties we were confronted with in the campaign of 1894 was the fact that, by reason of the operation of causes which were charged to the Democratic party, the workingmen in Bridgeport, in Waterbury, in New Haven, in New London, and other towns had been forced to come to an eight-hour day. That was undoubtedly a most potent weapon in the hands of our adversaries—that the working time and earning power of the workingman had been reduced by reason of legislation which had been attempted, the fear of the enactment of which had brought the country to that condition.

Senator NEWLANDS. To what legislation do you refer?

Mr. DAVENPORT. I take it that it was the threat with regard to tariff legislation.

Senator NEWLANDS. National legislation?

Mr. DAVENPORT. National legislation; yes.

I said a moment ago that an attempt on the part of the Government to deprive a man of the right to work more than eight hours a day or more than ten hours a day, being of a socialistic character, was invasive of the rights of the individual. I am glad that the honorable chairman of this committee accedes to the proposition that it would be unconstitutional, apart from the question of unhealthy occupation, and so forth. But the point I want to direct the attention of this committee to is that the constitutional right, the natural right which is spoken of in the Declaration of Independence, and which pulses through the Constitution of the United States is also protected from these indirect assaults as well as from direct assaults. We see that the French workmen are prepared to fight rather than submit to the ten-hour socialistic law in France, I said I did not think it would be necessary for the American people to take up arms in defense of those rights, because their bulwark is the Constitution of the United States.

Let us consider for a moment the question whether this mode of accomplishing the result is likely to stand the fire of criticism in the courts. I concede that a controversy between a contractor and the Government will come into the Court of Claims, because that is the tribunal where the Government has determined that such matters shall be adjusted and adjudicated. But I ask you, gentlemen, as lawyers and as experienced men in the conduct of cases in the courts, whether such a provision as the friends of this measure propose to force into every contract would be held to be valid? We know what the court has held in the Kansas case. The court held, of course, that the State was an employer and had the same rights that any other employer had; that it could determine the conditions upon which it would have its work done, and it could make it a criminal offense for a man to work on a road which was to be built by the State, or by a municipality, one of the instrumentalities of the State, in violation of that law. That is what the court decided, that the man who was guilty of an infraction of that provision of the law could be made criminally responsible and punishable. What the bearing of that proposition is on the case I spoke of before, that of punishing one man for the guilt

of another, has been sufficiently covered by me in what I have hitherto said.

I want to come right down to this proposition: Suppose the United States Government does enforce into its contracts this provision. Go a step further, and suppose that the contractor voluntarily enters into that contract and proceeds to execute it. Suppose he stipulates that neither he nor his subcontractor will permit a man to work more than eight hours a day upon any of the work. The question that I want to urge upon this committee is whether or not such a condition as that would be held to be valid. Of course the whole point of the opinion of Mr. Justice Harlan was that the State or the nation is an individual and has the same power and the same privilege that any other employer has.

But to come more directly to the point: We know that every contracting party, in making stipulations, is bound by certain limitations. A stipulation against good morals would be invalid. The chairman acquiesced in the suggestion I made the other day that a stipulation involving a criminal act would be invalid. He stated that it would not be valid in any country where the Anglo-Saxon jurisprudence prevailed. If the stipulation is immoral it will be invalid. It must not be against public policy. It must not be senseless, and it must not be without adequate consideration.

A familiar illustration is the case about which we have all read in our preliminary studies of the law, with reference to the blacksmith and the owner of the horse who entered into a contract for the shoeing of the horse. The owner stipulated to pay 1 farthing for the first nail driven, 2 farthings for the next, 4 for the next, and so on, doubling all the time, for the 32 nails. When the case came into court it was held that such a contract, containing such stipulations, was so unreasonable and unjust that it would not be enforced by any court in England. They gave the blacksmith what the shoeing of the horse was fairly worth. That illustrates the principle which permeates the great class of cases familiar, of course, to all you gentlemen.

Now, what is this stipulation?

Instead of supposing that the United States Government made a contract with the Cramps for building a battle ship let us suppose that the Russian Government made a contract with them and that this stipulation was put into the contract. The Cramps stipulate that they will not permit any person to work on that ship more than eight hours a day, and that no subcontractor among them shall permit any of his men to work more than eight hours in any calendar day under a penalty of a forfeiture of $5 for each man for each calendar day during which any of such men may be employed. We will say that they are employing 5,000 men, and a forfeiture of $5 a day for each man would be $25,000 a day. If the infraction of that stipulation continued for ten days it would be $250,000. The work that was being done under the contract might not be worth more than $50,000. The proposition I urge upon you is, that the court would say that such a stipulation was one of the phantastical and capricious conditions or stipulations that are put into contracts which should be disregarded and set aside. You will notice that this condition which you propose to insert in this agreement has no relation whatever to the thing the party contracts to do. He agrees to furnish a battle ship to the Government, and the Government agrees to pay so much for it.

The condition in regard to letting people work, whether by the contractor or by the subcontractor, is extraneous to the contract. It does not bear at all upon the quality of the work. It does not bear at all on the quality of the article which they agree to furnish. So that if the honorable chairman was defending a suit brought upon a contract of that kind he would at once raise the question that this stipulation is an independent stipulation, outside of the essence of the contract, and that it was obnoxious to at least three objections: First, that there is no consideration for it, that is, no adequate consideration, any more than there was in the case of the blacksmith; second, that it is senseless, because it has no bearing at all upon the thing which the Government wants done; and, third and last, on the ground that it is contrary to public policy, for it has a direct tendency not only to deprive people in this country of working and the exercise of their liberty, but it has a direct tendency to destroy enterprise and diligence, which, not only Solomon, but every court in Christendom recognizes as a thing to be commended and encouraged among men.

There is one other thing I want to direct your attention to which has not been referred to by me hitherto and is a matter of vast importance. It should be duly considered by this committee. That is in regard to the exceptions which the chairman so carefully inserted, with a full realization of the disastrous character of the bill if these exceptions were not inserted. He endeavored to improve upon the bill by making it applicable to as few lines of business as possible. He put in these exceptions: "That nothing in this act shall apply to contracts for transportation by land or water, or for the transmission of intelligence, or for such materials or articles as may be usually bought in the open market, whether made to conform to particular specifications or not, or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not."

I want to suggest to the committee that in jumping out of the frying pan it jumped into the fire.

The chairman, in his commendable effort to improve the bill has introduced into it something which will make it still more difficult of application, still more difficult of enforcement, and still more disastrous in its results, because of the uncertainty as to what those exceptions cover. I will take the last one first—"or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not." I have heard one or two gentlemen come here and start in upon the supposition that their interests were covered by this bill, and then the chairman would state that it was the intention of the framers of this amended bill to except them. I will not ask—for I am not here to ask—but I will suggest to the committee the uncertainty that is embraced in the use of the term "supplies." A year ago last January I happened to be in Washington and went up to be present at the opening of the bids for battle ships made by the different shipbuilders in this country. Every one of them had a proposition to "supply" the Government with a battle ship of certain dimensions, certain power, for certain cost, and in a certain time. What is a supply? You say every supply, "whether made to conform to particular specifications or not." Does that include whatever a man agrees to furnish to the Government?

I do not believe it is the intention of those who drafted this provision to except battle ships from its operation; but how can you limit it?

How can anybody say what is covered by that work? We must construe it literally to cover anything that may come within this provision, because we know that in the Sherman antitrust act the language used has been construed by the courts to cover everything. A supply, I take it, according to the common-sense interpretation of it, is anything which is "supplied." The point I am making is that because of this obscurity you are asked to favorably report a bill the interpretation of which is uncertain. Gentlemen, you know very well that the industries of this country can not stand interference of that character.

I want to go back now to the preceding provision: "Or such materials or articles as may usually be bought in the open market, whether made to conform to particular specifications or not." What does that mean? What does the word "usually" mean? We could suppose that coal, rope, oil, and a great many articles and classes of articles would be covered by that. But it is qualified by the word "usually." What does the word "usually" mean? Let us take, for instance, as an illustration, the army button. Mr. Sperry, of the great Scovill Manufacturing Company of Waterbury, manufactures buttons. He was speaking about the way in which they do their work; and he said that when an order comes to them from the Government for buttons they have to be made in such a way that the article itself is a special manufacture. "Usually" the article which is furnished to the Government is not such as is bought in the open market. I submit that the word "usually" is susceptible of such a diverse and vast variety of constructions that it makes the meaning of this bill absolutely uncertain.

I thank you, gentlemen, for your extreme courtesy in hearing me so many times. I want to remind you, in conclusion, that fifty years ago last January Stephen A. Douglas rose in his seat in the United States Senate, as chairman of the Committee on Territories, and reported the Kansas and Nebraska bill. At that time the Democratic party was in absolute control of this Government. At that time the antislavery agitation had substantially subsided and the Whig party had gone out of existence. Mr. Douglas reported that bill, which involved the repeal of the Missouri compromise, which would permit the carrying of Southern slaves into Territories where the people did not want them, and where even the great mass of the people in the South did not want them. In response to the agitation and demands of a few leaders in the South, Mr. Douglas made that report, and it was passed through the Senate and House. The principle involved was such that it immediately gave birth to the Republican party. The Republican party took its stand upon the principle of the rights of men and the liberties of men. They stood upon the principle that the South might have their local institution; but that if the proposition was only to advance the ambition of Mr. Douglas, or to advance the interests of the party and of the Southern institution, it was time for the American people to take a hand in it; and they did take a hand in it. What was the result? It was the destruction of the fortunes of Mr. Douglas; it was the destruction of the Democratic party, and it was the destruction of the interests which the fire eaters from the South, a few agitators, insisted they were the representatives of.

I tell you, gentlemen, from what I know of what is going on in this country, and of the attitude of the people in this country, that there is

involved in this measure the same kind of dynamite. I say that the gentlemen who favor this measure do not represent the great interests they profess to represent. They are attacking the individual liberty of the citizens of this country, the great property interests of this country, and the great laboring interests of this country. If this Government shall see fit to commit itself to such a policy, in violation of those interests, I say that the American people will resent it.

I thank you, gentlemen. You are the most courteous listeners I have ever had.

The CHAIRMAN. Are there any other gentlemen present who desire to be heard?

Mr. O'CONNELL. I would be very glad to be heard to-day if there is time. It will be impossible for me to be here at your next meeting, provided you adjourn until next Tuesday. I have been frequently referred to during these hearings, and I represent a class of workingmen who are exceptionally interested in this bill. I would like to have an opportunity to address the committee, either now or at sometime before next Tuesday.

The CHAIRMAN. There will be no opportunity before next Tuesday. Can you not be here next Tuesday?

Mr. O'CONNELL. I have an engagement which will take me quite a distance from here, and I am very much afraid it will be impossible.

The CHAIRMAN. We will hear you now.

ARGUMENT OF JAMES O'CONNELL, PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS AND VICE-PRESIDENT OF THE AMERICAN FEDERATION OF LABOR.

Mr. O'CONNELL. Mr. Chairman, I am president of the Federated Metal Trades of North America, an organization composed of all the metal-working international organizations. I am also vice-president of the American Federation of Labor.

I have had the pleasure of appearing on several occasions in connection with this bill before your honorable committee. I am a practical man. There is such a thing as talking a bill to death, but there are men who can talk them to life. I think we have had a practical demonstration of that at these hearings. I want to talk to the practical side of this matter and its effect upon the people I represent. I emphasize the word "represent." We are charged by professional men with misrepresentation. The very closing sentence of the gentleman who just preceded me was intended to convey to this committee the idea that the men who favored this measure were misrepresenting the wageworkers of this country. I want to challenge the opposition to produce persons or testimony to indicate that the men who are advocating the passage of this bill are not representing the wageworkers of this country.

Mr. DAVENPORT. Mr. Chairman, I only want to say that in using the word "misrepresent," I did not mean to say that they were intentionally misrepresenting them. I believe they think they do represent them; but I do not think they do.

Mr. O'CONNELL. "A rose by any other name would smell as sweet." You can not deceive intelligent men. You can not misrepresent to intelligent men. It is not necessary to call black black in order to lead men to know that it is black. The sole purpose of the opposition

to this bill has been to convey to the minds of the gentlemen of this committee the fact that the men advocating its passage are not representing the men they say they are; that the wage-workers of this country are not in favor of an eight-hour bill; that they want more work; that they want overtime; that they do not want to be limited or restricted in any way.

On the business side of the question they say to you that it would cause a great loss of business; that it would drive many manufacturers in this country out of business; that it would upset business by having different hours of work, so that there would be practically no head or tail to their systems of operating their various plants.

I want to call your attention to a statement made by the chief of the Bureau of Ordnance in his report to the Secretary of the Navy, in order to give you an idea as to the competition and the great loss that the private contractor is liable to suffer because of the reduction in the hours of labor. This will indicate to you the fact that under the eight-hour system employed at the Washington Gun Factory—commonly known as the navy-yard—where the workmen enjoy leave of absence for fifteen days per year with pay and all holidays with pay, and where 40 per cent is added to the fixed cost in all work figured upon—that Department, in competition with outside contractors, in a contract for about $2,000,000 worth of work, underbid the private contractor one-half a million of dollars. Here is the statement of the chief of the Bureau of Ordnance:

"In order to relieve the situation, the Bureau recently executed contracts with private establishments for the manufacture of twenty-four 8-inch and thirty-six 7-inch guns and mounts for vessels whose date of completion is the most remote. These contracts aggregated nearly $2,000,000, and in order to place them the Bureau was obliged to pay 36 per cent, amounting to half a million dollars more than the work could be performed for at the Naval Gun Factory. It remains to be seen whether these guns and mounts will be completed within the prescribed time, but judging from its past experience with contract work the Bureau fears that they will not be."

There is one contract amounting to $2,000,000, in a plant operated on eight hours a day, giving its employees fifteen days' leave per year with pay and all holidays with pay, competing against institutions operating ten hours, with no leave of absence with pay, and with no holidays with pay—and yet this plant, in which the highest skilled workmen of the country are employed, defeats those concerns under this contract by a half a million of dollars. Is it possible, in the face of that statement, that there is any liability of driving the manufacturers out of this country by the possibillty of reducing their hours one per day?

The legal fraternity, representing the other side, would indicate to you that all the wageworkers of this country want is work; that they should have every opportunity to work; that when the employer calls for volunteers to work they would not have room for them to work because there were so many. I venture to say that in a shop of that character the employees know nothing but work. They know nothing of the pleasures of life. They know nothing of leisure or of opportunities of living—only work.

Mr. Davenport read to you a newspaper clipping, which he usually carries in his vest pocket, and from it he would have you understand

that the employees in France struck against the reduction in their hours of labor. The very document he read indicates, if it indicates anything, that the men were striking for higher wages, and not against a reduction in the hours of labor; because the article itself stated that the manufacturers were willing to pay them the same rate of wage for ten hours that they had been receiving for ten and a half hours. Is it possible for the gentlemen of this committee to believe, or for any sane man, even Mr. Davenport, to believe, that men will strike for a half hour more work when they are receiving the same pay for working a half hour less? It is not sane to believe that any man would be so foolish. I do not believe that Mr. Davenport, with all his desire for work, would do that.

He states to you that the New York, New Haven and Hartford Railroad Company's machinists are almost ready to strike in order to get back to the nine-hour day. He does not tell you the truth of that situation at all. The fact is that the railroad company, without consultation with anybody, without even calling in the men and saying that they found it necessary to reduce the hours of labor on account of the condition of business, simply put up a notice to-night that to-morrow morning this plant will run eight hours. The men believe they ought to have some consideration in that matter. They believe that if their income is to be reduced 20 per cent they should have a right to be considered in the matter; that they should be consulted, and that a committee should be met to ascertain why this great reduction was made all at once. It was not a question of the reduction in the hours of labor, but it was a question of reduction of 20 per cent in their income, in theirmeans of livelihood.

Mr. Davenport states that the company has agreed to put them back on the nine-hour day. The company has agreed to do no such thing. The fact is this: After conferences with the company, when it was ascertained that injustice was being done, because some men were working a certain number of hours and others a certain other number of hours, the men finally got together and agreed that a regular workday of a set number of hours should be agreed upon, and that some men should not work ten hours and some eight; that they ought to split the thing up and make it a nine-hour day, for the time being. Now, they ask that they should have a certain percentage of increase in wages. But he does not tell you that. He conveys to you the idea that the men are going to strike because the company reduced their hours of labor. That is lawyer like. It reminds me very much of a lawyer pleading to a country jury, for him to claim that the organized wageworkers of this country, without exception, would strike for an increase in the hours of labor, when their wages would not be affected.

The tendency has been from time immemorial to reduce the hours of labor. That tendency has been down and down and down. I have not heard an employer, I have not heard a representative of an employer come before a committee in Congress during the past several years and say they were opposed to a reduction in the hours of labor. I have not seen them bring a single representative of the wageworkers, for whom they plead so sorrowfully, before this committee to tell you that they do not want a reduction in the hours of labor; but they come here and say to you that the advocates of this bill misrepresent the wants of the wageworkers of this country. There is, Mr. Chair-

man, in a statement made by Captain Pendleton, superintendent of the Naval Gun Factory, some very valuable information bearing upon Government work under the present eight-hour basis.

On page 62 he says:

"As soon as we were able to take the work ourselves they cost $1,300. (To the cost of all the work we do we add 40 per cent to cover the shop expenses. That is, we take the price of labor and materials and add 40 per cent, and that is the cost.) We built those guns at a cost of $1,300 each. The conditions of the factory are such now that we can not do the work in pace with the times and future demands.

"Mr. VREELAND. What cost $1,300? The Government does not do any castings.

"Captain PENDLETON. The Government buys its forgings from the big steel works.

"Mr. RIXEY. You add 40 per cent for what?

"Captain PENDLETON. We take all the labor that is expended on a piece of work—the work of every man—and charge all of that to the order. Then we take the cost of the material and add that together, and then add 40 per cent.

"Mr. RIXEY. Why do you add the 40 per cent?

"Captain PENDLETON. Because we have to pay for coal, and we have to charge superintendence, incidental repairs to machinery, and all sorts of things. We make that charge of 40 per cent in order to cover those expenses for shop maintenance.

"Mr. RIXEY. That seems to be a very liberal allowance.

"Captain PENDLETON. It is a very liberal allowance.

"CAN NOT DO THE WORK WITH EQUIPMENT NOW.

"Now, we come to this point. We have found that we can not do the work. Nothing was done last year to show that we were going to be able to do the work, and so the Bureau of Ordnance has been obliged to contract for 70 or 80 guns and mounts outside.

"Mr. VREELAND. That is, the finishing of them?

"Captain PENDLETON. The whole work. Before the Department made that contract they sent for me and asked me to make a liberal estimate of what it ought to cost. I had every item gone over and a detailed estimate worked out. The Department had to contract for this work and pay practically $500,000 more to get those guns than the estimate we put on the work.

"Mr. BUTLER. I think that Admiral O'Neil stated yesterday that in buying $2,000,000 worth of guns they cost $2,500,000.

"$2,000,000 GUNS COST GOVERNMENT $2,500,000 UNDER CONTRACT.

"Captain PENDLETON. The cost is half a million dollars more than I estimated they would cost, and I went into every detail. That $500,000 will build the gun shop that we ask for and equip it, and we will own it. By next year we would have been working if it had been provided for last year."

On page 66 of this report he says:

"I have just spoken about the $500,000 more which it cost to do the work outside than by the Government. Now, take another little instance. About a year ago the question came up in regard to powder

tanks for the 5-inch guns. It is a small matter. We had to have 15,000 of them for the six 3,500-ton ships. They were advertised for, because it was thought we were not able to do it in addition to our work. We appealed to the Department to give us some of the work. We said we could make them for $6 apiece. They said, 'All right; you can have 10,000,' and the outsiders only got 5,000. The lowest contract they could make was for $9.75. We finished our 10,000, in addition to our other work, and made a saving of over $37,000.

"Mr. WADE. What was the actual cost to you on your estimate?

"Captain PENDLETON. Five dollars and ninety-eight cents apiece. We estimated to do the work for $6. That $5.98 included the 50 per cent which we add on everything.

"The whole shop, and the equipment for that coppersmith shop which is doing all of our work, did not cost $37,000.

"Mr. WADE. That was the difference between the contract price and your price?

"Captain PENDLETON. Yes, sir.

"Mr. VREELAND. How do you arrive at the cost?

"Captain PENDLETON. We charge every minute's labor and we charge every piece of material.

"Mr. VREELAND. Do you charge anything for repairs?

"Captain PENDLETON. We charge 40 per cent to cover coal, repairs, superintendence, and everything of an indirect nature.

"Mr. VREELAND. Of course, private companies could not figure cost in that way."

On page 75, he says:

"Captain PENDLETON. The mechanics, yes; working eight hours a day and getting pay for twenty-three days' leave and holidays; twenty-six days is a working month, but even then we can do the work at 30 per cent less than you can get it done outside, even with all those drawbacks. Therefore I do not see why the Government should go outside and pay insurance and interest and depreciation on plants belonging to somebody else. In the past seven months I have consulted the business men of the country all around because their business brings them down to me, and I have asked them under what conditions a private firm will take this work. They say that a private firm goes on this principle: They have to get a contract at a price which they can calculate that a plant will be paid for in five years, besides the profit, and that is what they all work for. I have consulted with them, and they say that is the business principle of companies."

On page 86 he says:

"Item No. 4: Foundry (and foundry yard) location, western extension; estimated cost, $362,170.

"A new and larger foundry is imperatively needed. The present foundry is antiquated and altogether too small for our requirements. It is proposed to locate the new foundry and foundry yard in the southwest part of the western extension."

Senator NEWLANDS. Is it your understanding that the wageworkers of the country generally are desirous of legislation that will finally result in the establishment of eight hours as a day's labor?

Mr. O'CONNELL. Yes; in so far as it affects the Government, directly or indirectly.

Senator NEWLANDS. Are they desirous of accomplishing that ultimately in all vocations?

Mr. O'CONNELL. They are desirous of establishing the eight-hour day ultimately in all classes where wageworkers are employed.

Senator NEWLANDS. Do they expect to get the same pay for eight hours they now receive for nine, ten, and eleven hours?

Mr. O'CONNELL. The tendency has always been that wages have not decreased with the reduction of hours.

Senator NEWLANDS. They remain the same?

Mr. O'CONNELL. They remain the same or have increased.

Mr. TRACY. There has not been a case where the hours have been reduced when there has not been from a 12½ to a 25 per cent increase in wages.

Senator NEWLANDS. You mean an actual increase?

Mr. TRACY. Yes, sir; an actual increase of from 12½ to 25 per cent.

Senator NEWLANDS. So that where the change has been made from twelve hours or ten hours down to eight hours, your statement is that in all cases the wage-earner has received from 12½ to 25 per cent more for eight hours' work than he originally received for ten or twelve?

Mr. MORRISON. The workman becomes a better workman on account of the shorter hours.

Senator NEWLANDS. You state that as a fact. Are there any statistics upon that subject?

Mr. MORRISON. We have statistics in print which I have not got in the room, but which I can furnish.

Senator NEWLANDS. Do you accept that statement, Mr. O'Connell?

Mr. O'CONNELL. I make the statement that where the hours of labor have been reduced there may temporarily, in some cases, have been a reduction of wages; but the tendency has always been where the hours of labor have been reduced, that the wages have increased in proportion to the reduction of the hours of work.

I want to call your attention to a statement made by Corporal O'Neil, contained in this same report (p. 153):

"For instance, some time ago we got some guns from the Bethlehem Steel Company, and they were very pretty to look at. They were beautiful guns to look at, but when you came to examine them closely there was a great difference in the workmanship, and those guns never would have been turned out, they never could have gotten out of our navy-yard. After that battery was put on board ship we found that the breech of the guns had a tendency to unlock, and after a long investigation, in which they combated us at every step and insisted that the guns were right, they finally admitted that they were wrong, and those guns had to be taken out and recut and the screw blocks refitted and the guns altered. That is a very serious thing and a very troublesome thing. They had a very competent inspector there, too—an ex-naval officer at that.

"Mr. DAYTON. Does it cost more to buy these guns than it does to make them?

"Admiral O'NEIL. Yes; it costs us $2,000,000 to buy guns by contract which would cost us half a million dollars less to make. But private manufacturers have to charge interest on the investment for plant, and they must have a profit."

There, gentlemen, is a statement setting forth the quality of work turned out in that plant, with an eight-hour day and the other advantages which the men enjoy, as compared with work done by private contractors under a ten-hour day or under an unlimited system.

Senator NEWLANDS. Do you claim that the men in the navy-yard,

because of shorter hours, really do more effective work, or that the exaggerated profits of the contractor are cut down?

Mr. O'CONNELL. I claim both. It is stated further in this report that the conditions of employment there, because of the shorter hours and other privileges which the men enjoy, bring the Government the highest class of American mechanics. Because of the shorter hours and other privileges they are physically and mentally better men. The extreme difference in the price is also, because, as set forth in this report, the contractors attempt to obtain an exorbitant price from the Government.

Senator NEWLANDS. What have you to say with regard to the inconvenience which it is alleged by a great many of these manufacturers would be caused to them if they should be compelled to maintain two pay rolls, one for their ordinary work for the usual day's work of nine or ten hours, and the other for Government work on the eight-hour basis?

Mr. O'CONNELL. I can not see any very great inconvenience in it. All successful business houses and all successful manufacturing plants have systems of keeping tab on the work being done. That account is kept, practically, by the workingman himself. They have a printed card for the job, showing the time of commencing and the time of quitting work, and the men turn in the slip.

Mr. MACINTYRE. That only shows the hours of work, but not the result of the hours of labor.

Mr. O'CONNELL. I do not know what your practice is. I am speaking of the practice with which I am familliar, where the men keep track of the work they do and specify it in detail.

Senator NEWLANDS. And you think there would be no difficulty in a machine shop, such as you speak of, doing business for private parties and at the same time doing business for the Government?

Mr. O'CONNELL. No; I do not think there would be any inconvenience, and I have not heard any argument to the effect that the inconvenience would amount to anything more than this: If I was working alongside of another mechanic, and he was working on Government work and I was working on private work, he would quit at 4 o'clock and I might have to stay until 5; and that it would have a tendency to make me feel that I would want to go home at 4 o'clock, and the result would be I would do something in the way of making trouble, in order to get home at 4 o'clock. That is the only argument as to inconvenience that I have heard advanced.

Senator NEWLANDS. Suppose the workman at your side is working upon a Government contract and you are working upon a private contract. Would he expect to get the same pay?

Mr. O'CONNELL. If he was working an hour less than I was?

Senator NEWLANDS. Yes.

Mr. O'CONNELL. Then he would very likely expect to get the same pay that I did. The tendency of it would be that I would try to get my hours reduced to the same number of hours that he works.

Senator NEWLANDS. You would endeavor to get an eight-hour day?

Mr. O'CONNELL. Yes.

Senator NEWLANDS. Is it the custom in machine shops to pay by the day or by the hour?

Mr. O'CONNELL. They pay by the hour. It is the rare exception where they pay you $2.50 or $3 a day.

Senator NEWLANDS. What is the rate per hour?

Mr. O'CONNELL. A fair estimate would be 27½ cents an hour.

Senator NEWLANDS. If you received 27½ cents an hour for nine hours work, and the workman at your side was engaged upon a Government contract for eight hours a day, would he expect more than 27½ cents an hour?

Mr. O'CONNELL. He would expect the same pay that I received, so that his per diem would be the same as mine. We have, during the past two years, endeavored to reduce the hours of labor in the metal industry from ten to nine, and we have been very largely successful. When hours have been reduced it has been the rare exception that wages were reduced with the hours. The wages remained the same for a nine-hour day as for a ten-hour day, and in many cases the wages have gone higher. In some few instances the employers are endeavoring to reduce wages and increase hours.

Senator NEWLANDS. Take this very case of a man working on a Government contract by your side when you are working on private work. Do you think he would do as much work in eight hours as you would do in nine?

Mr. O'CONNELL. It is hardly possible that he would do as much if we were operating machines speeded to a certain number of revolutions per hour or per day, for the machine could not do any more for him than it could for me, and there would be a difference of an hour in the day. There is, however, in the machinery industry such a thing as hand labor and mental labor and dexterity of action and of thought, in which one man has a very great advantage over another man. The man who has to work a long number of hours does not work as rapidly as the other man who has the proper rest, the proper leisure, and the proper time and opportunity to study mechanical science, etc. There is every reason to believe that the wageworker working the shortest number of hours has greater opportunity for improvement, and we have had no proof that he does not take advantage of the opportunity to advance himself morally, mentally, and physically, so as to make a better workman. I have given that matter a good deal of study for a number of years and I find that where the hours of labor have been reduced the men have become better workmen because of working shorter hours.

Senator NEWLANDS. Is it the aim of the labor unions to eventually bring about legislation by the various States establishing eight hours as a legal day's labor in all vocations?

Mr. O'CONNELL. Nearly every State in the Union has had bills introduced for an eight-hour day so far as it affected State work, but not to affect the private employer.

Senator NEWLANDS. Is it their aim to do that?

Mr. O'CONNELL. No; we do not aim to legislate to affect anybody except the contractor and subcontractor with the Government, the State, or the municipality, as the case may be. We propose to take care of the question of the reduction of hours on the outside ourselves, in our own way.

Senator NEWLANDS. In Nevada we recently passed a statute fixing eight hours as a day's labor for the men employed in the mines and smelters.

Mr. O'CONNELL. That was because of the hazardous nature of the employment, and the danger of living underground. It is not the intention of organized labor, it is not the intention of the wageworkers

to apply for legislation affecting the private contractor or the manufacturers generally in this country, except in cases where they take contracts or subcontracts from the Government, the State, or the municipality. Outside of that we believe we can take care of the question ourselves.

I do not desire to keep the members of the committee here and do not want to talk for the record. I want to speak to the members personally. I will therefore close my remarks to-day, with the hope that I will be able to have an opportunity to be heard before you next Tuesday.

The committee thereupon (at 12 o'clock and 30 minutes p. m.) adjourned until Tuesday, April 5, 1904, at 10.30 o'clock, a. m.

WASHINGTON, D. C., *April 5, 1904.*

The committee met at 10.30 o'clock a. m.

Present: Senators McComas (chairman), Dolliver, Clapp, Burnham, Gibson, and Newlands.

The CHAIRMAN. Upon the adjournment of the committee to-day the public hearings upon this bill will be concluded by order of the committee.

ARGUMENT OF JAMES O'CONNELL, PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS, AND VICE-PRESIDENT OF THE AMERICAN FEDERATION OF LABOR—Continued.

Mr. O'CONNELL. Mr. Chairman, when I concluded my argument last week I was discussing the relative cost of production by the Government in its eight-hour plant as compared with the cost of production in private plants; and was also discussing the question of the reduction of hours that has been constantly taking place in private employment. I was also calling to the attention of the committee some of the arguments presented by Mr. Davenport, who has appeared before the committee on several occasions, and some of the statements made by that gentleman as to the position occupied by the men who were in favor of this bill. I desire to continue somewhat on the same line this morning and call to the attention of the committee the statements that have been made by those appearing against the bill, to the effect that this legislation is of a socialistic character, and that the men who favor it are socialists. I will try to convey to the minds of the members of this committee that even though that were true, even though we were socialists, that would not be an argument against this bill.

We deny, of course, the statements made that this is socialistic legislation, and is favored by socialists. We maintain that the legislation asked for is asked for and desired by the men engaged in the trades-union movement of this country. In speaking for the organized forces of this country we speak also for the unorganized forces, who have no one to speak for them. There is absolutely nothing socialistic about the proposed law. The documents read by Mr. Davenport before this committee, in substantiation of his statement that it was socialistic, go back as far as the Eight-Hour League, in Boston, which organization

was composed of men who were, at that time, members of trades-union organizations and men who were not members of organizations at all—reputable citizens and men interested in seeing the hours of labor reduced.

I stated on last Tuesday that, on the practical side of the question, I represent 75,000 of the highly skilled mechanics in this country as their executive officer. They are employed in every department where mechanics are employed by private employers and by the Government. We are interested in the passage of this measure because of the very great number of our people who are employed in the building of supplies for the Government and because of the great number who are employed by contractors in the building of Government ships, and so forth. I also represent the metal trades of North America, an organization composed of various national organizations of metal trades, such as machinists, molders, pattern makers, and others, of which there are approximately 300,000 in this country.

I speak as the executive officer of that organization; and in speaking for these men I speak by the card, by authority of these people. It is intimated that the men advocating this measure speak only for themselves and do not voice the sentiment of the wage-workers in this country. In my own organization, consisting of 75,000 men, whom I represent directly, by a referendum vote, in which every member in the organization had an opportunity to cast his vote for or against the legislation in favor of reducing the hours of labor and in favor of the absolute abolishment of overtime—by an almost unanimous vote of the entire membership it was decided in favor of the legislation that has been pending before Congress for several sessions known as the eight-hour bill.

During the past several years the hours of labor have been gradually reduced in the metal trades. The ten-hour day some few years ago was known as a regular day's labor in the metal trades. Other trades will be spoken of by other gentlemen who are here who know better the hours of labor in those trades than I do. But in the metal trades the hours of labor have been reduced to nine a day, or to fifty-four hours per week. They have been reduced in some cases by conferences and in others by having to go on a strike to accomplish it, but the tendency has been to a nine-hour day in the metal trades with the hope that at an early date we will be able to go further until we secure an eight-hour day.

The CHAIRMAN. You are familiar with the sentiment among the people of your organization. I wish you would state, if you know, whether there is any sentiment for a reduction of the hours of labor beyond eight hours per day, or whether that is accepted as the ultimate and ideal number of hours that a man should work for the purpose of supporting himself and his family and in order to become and remain a good citizen of this country.

Mr. O'CONNELL. That is the understanding at this time. Now and then you will find somebody who will say that we ought to have a seven-hour day or a six-hour day; but eight hours as a day's labor is the day to which the workingmen of the country look forward. That seems to be their ideal working day. That is the idea of our organization in the trades in which I am particularly interested and with which I am familiar.

One of the strong objections made by those upon the other side to this bill is the fact that it prohibits working overtime. They claim that it discriminates against the right of a man to earn more money and to work longer if he desires; that it is un-American because it is discrimination.

All of our agreements in the trade with which I am thoroughly familiar ask for extra compensation for overtime. In the ordinary evening hours we ask for time and a half, and for later hours double time, and for holidays and Sundays double time. We do not ask that because we are desirous of getting extra compensation for the labor, but we ask it because we believe that by taxing, to some extent, unnecessary overtime it will be discouraged. It is not the desire of the wageworkers of this country to work, by agreement or otherwise, more than a regular stipulated number of hours a day. I worked for twenty-five years in various machine shops throughout the country and am thoroughly familiar with the trade. I know of the many subterfuges the workmen will go to in order to be excused from working overtime. Almost every conceivable thing the human mind can think of will be brought forward in order to try to make an excuse to the employer to prevent working extra time.

Objection is also made to stopping at a specific time, and because the workingmen are prohibited from working longer than just eight hours a day. It is claimed that, as a result, the employer may suffer great loss by having to stop work at an exact moment. That point has been very strongly argued before the committee in the House and before this committee by representatives of the various iron and steel industries, and by some of the representatives who are not particularly interested in the legislation because of having secured contracts with the Government, and do not expect to secure contracts, as they are not working in the line of Government contracts. I know of no specific case, to which the exceptions of the bill do not apply, where the requirement of stopping the work at a given time, or of changing the men at a given time, would be any greater hardship upon the employer under an eight-hour obligation than it would under the present system, whether it be a nine or a ten hour day, or whatever the limit of a day's labor may be.

An illustration has been given by some of these gentlemen that is applicable to a foundry where they are melting iron and steel when atmospheric conditions would sometimes interfere with the proper heating of metal. They assert that the metal might not be properly heated at a certain time in order to be poured, and as a result the men might have to work a few moments longer in order to successfully pour the iron and to save loss to the firm. That might be true in a number of instances. Such cases might arise, but they would arise no more under the application of the eight-hour day than they would under the application of the nine or the ten-hour day. The business would so arrange itself and the men would so arrange themselves that the loss suffered by the employer would not be as much under the provisions of this bill for an eight-hour day as it is under the haphazard way of working that is adopted to-day. The Naval Gun Factory of Washington is one of the best regulated plants employing mechanics in the United States. It is an institution that has in its employ the very best skill of any plant in the United States.

In the testimony given by Captain Pendleton before the naval committee of the House of Representatives he makes application for an appropriation for the enlargement of his foundry. He knows full well that he will be expected to comply exactly with the eight-hour law in force at the Washington gun factory, because it is in force there now every day. He knows full well that if he secures the enlargement of his foundry and of his cupola facilities he will have to so arrange his business that the eight-hour day shall apply. The present law does not permit the men in that yard to work more than eight hours a day. They do not work eight hours and a minute, but they work an absolute eight-hour day, and they work three shifts of eight hours each. There is no difficulty whatever experienced in doing that. Captain Pendleton is a practical man. He has had charge of that yard for a number of years and has made a careful study of its requirements, and he knows that when he applies for an enlargement of his foundry facilities it will have to be operated on the eight-hour basis. If he believed that the Government would suffer loss by it, it seems to me, as a practical proposition, that he would not ask for an appropriation to enlarge that foundry so that he might be able to produce nearly all the castings they desire at the Naval Gun Factory.

Another illustration of the liability to loss cited by the opponents of this bill is that in the great machine shops of the country the machines are started at a certain time to do a certain work, and that before the operation is completed it may be an hour, or two hours, or eight hours, perhaps, longer than a regular day's work. They say that if the operation was stopped during that time it would be liable to entail damage to the article being manufactured and loss to the employer by spoiling the output. That is true. There are such cases in machine shops in this country. There is scarcely a day in a machine shop in the United States when on some particular job the tools working on it could not be stopped; but the men can be changed without loss or trouble. In the Washington Navy-Yard the boring of guns is one of the finest pieces of work to be performed in that shop, or in any machine shop in this country.

There is scarcely a day in the three hundred and odd working days in the year in which the men do not change at the expiration of the eight-hour day without interfering with the operation of the machine. In boring a cylinder, if the tool is stopped and started again, a ridge in the cylinder may be left by dropping the bar or by the jar in stopping it, and it would not make a perfect job. But in my own personal experience, on at least 500 different occasions, such work has been performed by another man coming in and taking my place, or by my coming in and taking the place of another man, while the machine goes on. There is no liability of loss whatever to the employer. That is the practical method of operation taking place every day in machine shops and in other manufacturing plants all over this country. It is an every day occurrence.

One of the gentlemen who appeared before this committee, and a practical man, tried to inject into this testimony some things that have absolutely no application to the bill. He argued that the passage of this bill would prohibit piecework and working under the trade-contract system; that it would prohibit the individual workman and the employer from entering into a contract that the employee should receive so much per piece manufactured in the performance of his

work. The bill has no application whatever to such an arrangement between the employer and the employee. The opposition have endeavored to inject that thought into your minds during these hearings, but it has no bearing whatever upon the bill, and is intended merely to confuse the minds of the members of this committee by the production of apparently overwhelming evidence that the bill means an onslaught upon the employers of this country, which will drive them out of business.

I want to draw your attention particularly to the building trades, because one of the gentlemen who appeared before this committee stated that he represented the building-trade employers of Chicago, and he was opposed to this bill. Every concern that he mentioned as a part of his constituency have been for years and are now working a staight eight-hour day. I refer to Mr. Davenport. He stated that in his travels in the interests of the Anti-Boycott Association, the members of which association he refused to name because of their liability to punishment by the organized wageworkers of this country, he had been simply overwhelmed with congratulations because he had brought before the wageworkers of this country the fact that this bill absolutely prohibited them from working overtime. I took the opportunity of making some investigation as to these statements, and I solicited communications signed and sealed by the officers in the lodges of the city from which Mr. Davenport comes, and those letters have been filed with your committee. In those communications, received from the various labor organizations of the city from which he comes, it is shown that Mr. Davenport was speaking for the record; that he was not speaking at all from his knowledge of the situation throughout the country, but was interested in getting testimony on the record before this committee in order to make it appear that he is performing a great work.

The opposition to this bill has not produced a single witness to testify that the representatives of organized labor are not representing the wageworkers of this country, notwithstanding the statement of Mr. Davenport that the wageworkers of the country have said to him personally they are not in favor of this bill. We maintain that the fact is that this bill is fully understood by the wageworkers of this country, and that they are in full accord with the representatives who are advocating the passage of it. We defy the opposition to produce from the ranks of the wageworkers of the country, notwithstanding the liability of discriminations, and notwithstanding the liability of blacklisting of the man who dares oppose the passage of this bill personally—we defy the opposition to bring a representative here to say that the wageworkers of this country are not in favor of an absolute eight-hour day.

We maintain before this committee that we truly represent the interests of the wageworkers and that we represent them, not by hearsay, but because we know their needs. We have gone among them and have heard their expressions, not only once but many times. Whenever they have had an opportunity of voting upon this measure they have fully understood that this bill means the absolute inauguration of an eight-hour day on Government contracts and subcontracts. They understand that the bill absolutely means the prohibition of all overtime. They understand fully the provisions of the bill and are perfectly satisfied with it. For the several thousand workingmen I have the honor to represent as their executive, I speak by the card,

and I ask you to give this bill a fair consideration. I ask you to throw aside the technicalities that have been brought up by the legal fraternity and to deal with the practical application of the law, and with the practical application of a shorter workday.

I have not heard one man come before this committee who has said that he was not in favor of a shorter workday. I have heard one or two say that they believed ten hours was not too long for a day's work. I heard one gentleman, representing a very large institution, say that they ought to have an opportunity of employing boys at an earlier age, and that they were going to school too long; but I do not think he made those statements seriously. He could not have been serious about that. No citizen of our country could be so foolish as to say that a child should be taken from school, and not have an opportunity of going to school, in order that he might go to work. These statements are made to this committee for the purpose of confusing their minds, and are entirely irrelevant to this bill.

I trust that you will give this measure the consideration which it deserves, and I thank you for your attention this morning.

The CHAIRMAN. Before we proceed with this hearing I desire to say to the committee that to-day's session concludes the public hearings upon this bill. Bishop Spalding and Mr. Volney Foster are to be heard tomorrow before the House Committee on Labor on a bill similar to that which Senator Cullom has introduced in the Senate, the national arbitration bill. If it is agreeable to the committee I would be glad to have a meeting on Thursday at 10.30 o'clock in order that we may hear Bishop Spalding and Mr. Foster upon that bill. At that time we may also be able to hear others who desire to be heard.

We will now hear Mr. Duncan for a quarter of an hour.

Mr. DUNCAN. I would prefer to speak later, as this is the first opportunity I have had to appear here this session.

The CHAIRMAN. Then we will hear Mr. Thompson.

ARGUMENT OF M. F. THOMPSON, OF BIRMINGHAM, ALA.

The CHAIRMAN. Will you state your name and residence?

Mr. THOMPSON. My name is M. F. Thompson. I reside at Birmingham, Ala. I represent the Citizens' Alliance of Birmingham, Ala., and I came here to ask the privilege of sending a delegation of our association to meet with this committee next week.

The CHAIRMAN. The public hearings upon this bill are to be concluded to-day.

Mr. THOMPSON. So I am informed, and consequently I am not prepared to do justice either to our organization or to the subject in hand.

The CHAIRMAN. The committee has authorized the chairman to print any proper matter that may be presented before the final printing of these hearings, and if you will send what you desire to submit to the committee within a couple of days it will be printed.

Mr. THOMPSON. It will be the latter part of the week before I could send it, because I have to return to Alabama and report to the directors by whom I am sent here. We would be glad to have our objections and protests to this bill appear in the printed report of these hearings.

The CHAIRMAN. If you get them here in time, we will take pleasure in incorporating them into the report.

Mr. THOMPSON. This legislation affects us in the South, and I speak, more or less, for the entire South. While I come from Birmingham, Ala., I have been in contact and communication with business interests of the South; and we desire to enter our emphatic and unconditional protest against this legislation. There is not an employer's interest or a business interest in the South, as far as I have been able to ascertain, and I have sought to ascertain it, which favors this legislation. We are peculiarly situated in the South. We are not an industrial people as you are in this section of the country, although we are growing more and more into that condition. Our principal interest is agriculture.

We believe that an enforced eight-hour day would be fatal to the principal crop of our section. I wish you to bear that in mind, gentlemen, because it bears out the principal objection which is made against this legislation, that it is class legislation. It is asked in the interests of a class. It is sought by a class and it applies to a class. This sort of legislation from the beginning of this country until now has been regarded as vicious. You can not legislate in behalf of one class without injuring another. The founders of our Government established that principle and it has yet to be proven untrue.

I have said that our principal objection to this special bill is that it is class legislation; but we recognize also that this is only the beginning, the entering wedge for other legislation which we conceive to be socialistic, the protest of the gentleman to the contrary notwithstanding. His whole argument convinces me that its tendency is in that direction..

The CHAIRMAN. When you say that this is the beginning of such legislation, you perhaps do not recall the eight-hour legislation and proclamation under the Grant Administration and the act of 1892 under the Cleveland Administration.

Mr. THOMPSON. I recognize that; but this deals with larger interests and has a larger application, showing that there is a constant tendency toward this class legislation.

I can conceive of classes where an eight-hour day would be sufficient, and I can conceive of others where it would be absolutely destructive. For example, you can not control the raising of the cotton crop of the South by limiting the hours of labor. God controls that by climatic conditions and other influences. In order to raise that crop you must have those conditions, and you can not control them arbitrarily. The cotton crop represented to the people of this country, not to the people of the South, in the last year $500,000,000. There is no other crop I am aware of that compares with it. It enters into the life of every man in this country, because there is not a man who wears cotton goods in any shape, form, or fashion who is not interested in it. So that when you attempt to arbitrarily place an eight-hour limit upon the labor of the South you, in my judgment, absolutely destroy the possibility of gathering that crop, or you increase its cost to such an extent that every man, woman, and child in the country will feel the increase. The manufacturers of New England are already complaining that they can not run their mills with the increased cost of cotton, and yet it is to-day far from what it was at the close of the civil war.

The negro constitutes the agricultural labor of the South. The negro raises the cotton.

The CHAIRMAN. Does he work in the cotton mills in Alabama?

Mr. THOMPSON. I say the negro raises the cotton.

The CHAIRMAN. And I ask you if he works in the cotton mills.

Mr. THOMPSON. In one mill only that I know of.

The CHAIRMAN. How does he prosper in that mill?

Mr. THOMPSON. My judgment is against that of other people in the South. I believe the negro will make the best cotton-mill laborer in the world. I wish to place that statement on record. I believe the negro laborer of the South, when given proper opportunity, will produce cheaper cotton and better cotton and will be a better laborer in the cotton mills of the South than any other class of labor.

Senator DOLLIVER. I do not exactly understand how this bill would affect the negro in the cotton field.

Mr. THOMPSON. If you put an eight-hour day in force in our towns and cities you will depopulate the farms. You can not keep the negro on the farm if there are less hours of labor in the towns and cities. It will be an absolute impossibility, because the nature of the negro is such that he wants to do just as little work as possible. Already the farmers of the South fear that they can not get the labor to save their cotton crops.

(At this point Senator Clapp took the chair.)

Senator DOLLIVER. Representative men of the South have published articles in the newspapers and in the magazines recommending the total deportation of the negro race.

Mr. THOMPSON. Then they are enemies of the South.

Senator DOLLIVER. John Temple Graves advocated in his newspaper the deportation of the whole negro race.

Mr. THOMPSON. Mr. Graves is a newspaper man, and the most respectable papers in the South condemn him for his position in that matter. There is not a respectable paper in the South which approves of his statement. I do not say it to criticise him, because he may possibly believe what he says, and I give him the credit for that belief, but he is mistaken. I was raised on a farm. I was raised under the slave régime. I know the negro habits and the negro character, and I say to you, gentlemen, that it would be practically impossible to gather the cotton crop under the eight-hour system. In that warm climate they have got to begin work early and continue it until late. The cotton crop is practically an all-the-year crop. It has no limit and you can not limit it. The negro is the farm laborer of the South. With the demand of the world for an increased production of cotton we are to-day short in that production.

Senator DOLLIVER. Are the wages of the negro laborer being increased on that account?

Mr. THOMPSON. Yes; to some extent. But I believe that natural conditions should control these matters. I believe that when you go beyond natural conditions and undertake to control these matters arbitrarily by legislation you are going beyond the proper province of legislation.

Senator NEWLANDS. Do you claim that this bill affects the laborer on cotton plantations?

Mr. THOMPSON. I do not claim that this bill does, but I say that is the tendency of such legislation.

Senator NEWLANDS. Then, as I understand it, you would oppose this bill because it has a tendency to establish an eight-hour day for labor?

Mr. THOMPSON. Yes, sir.

Senator NEWLANDS. I understood you to say that if the hours of labor were shorter in the cities and towns the negroes would all go from the farms to the cities and towns.

Mr. THOMPSON. Yes.

Senator NEWLANDS. That would mean that you would have to maintain uniformly in the cities and towns the same hours of labor as now prevail on the farms.

Mr. THOMPSON. No, sir; but it points out exactly the effects of the class legislation to which I am trying to call your attention. If you legislate for one class you will see how it affects the other classes.

Senator NEWLANDS. Your argument is that the manufacturing class should not have shorter hours because the tendency of it would be to draw the laborers from the farms, and hence injure the agricultural class?

Mr. THOMPSON. You destroy that agricultural interest.

Senator NEWLANDS. What is the average for a day's labor upon the farms?

Mr. THOMPSON. It has no average. It is from sunup to sundown; and it is governed entirely by the weather.

Senator NEWLANDS. That means at least twelve hours a day?

Mr. THOMPSON. About twelve hours a day.

Senator NEWLANDS. Would you advocate twelve hours for a day's labor?

Mr. THOMPSON. There are some periods of the year when they do not work five hours a day.

Senator NEWLANDS. I am asking you if you would advocate twelve hours as a day's labor in the towns?

Mr. THOMPSON. No.

Senator NEWLANDS. If you advocate a less number of hours——

Mr. THOMPSON. I do not advocate any fixed day. I say you can not fix the hours of labor per day arbitrarily, at ten, or twelve, or five hours. You do an injustice to some class when you attempt it. That is the argument I am making. It is a matter of contract and a matter of supply and demand.

Senator NEWLANDS. That would apply to a day's labor fixed by contract just as well as it would apply to a day's labor fixed by law. Entirely outside of the question of fixing the number of hours to constitute a day's work by law, if the custom is to have shorter hours of labor in the towns than in the country, then, according to your theory, the tendency would be to depopulate the farms.

Mr. THOMPSON. Leave the matter free from legislation and there will never be an eight-hour day in the towns of the South.

Senator NEWLANDS. Would there be a ten-hour day?

Mr. THOMPSON. Possibly.

Senator NEWLANDS. Would not the difference between a ten-hour day and a twelve-hour day attract the laborers from the farms?

Mr. THOMPSON. It would not affect them so much as the difference between twelve hours and eight hours. We have great trouble at present to keep the idle negroes out of the towns. It has necessitated the enactment of a vagrancy law in practically all of the Southern States. The object of that law is to put the negroes back on the farms and put them to work, because an idle class is a criminal class. We have trouble enough now to keep the negroes from crime without having it increased by legislation. We believe that if they are sus-

tained in idleness and even given legal sanction for it, the race problem in the South will assume a phase it has never assumed heretofore. We will have a larger idle class, which will mean a larger criminal class.

I will be glad to submit to the committee in writing what I have to say further upon this subject.

Our principal objection to this bill is that it is class legislation, and when you attempt to legislate for the benefit of one class you necessarily infringe upon the rights of another. When you begin that there is no limit to it. You do not know where the wrong will end. Let these matters be regulated by contract and by the law of supply and demand. When you have done that you have done all that it was intended the Government of this country should do, in my judgment.

I desire to file, as part of my remarks, the protest of the Citizens' Alliance of Birmingham, Ala., against the passage of this bill.

The protest is as follows:

Protest of the Citizens' Alliance of Birmingham, Ala., against the proposed eight-hour law, filed before the Senate Committee on Education and Labor.

On behalf of the Citizens' Alliance of Birmingham, Ala., I desire to file this protest against the proposed eight-hour law now pending before the Senate Committee on Education and Labor:

1. This proposed bill is subject to the fatal objection of being class legislation. In support of this no stronger evidence is needed than the statement of Mr. Samuel Gompers, president of the American Federation of Labor, before this committee. In attempting to prove the inconsistencies of the employers in their objections to the pending bill, Mr. Gompers said that employers could not agree among themselves on any line of objection and that only in one thing could they be said to be together and that was in their opposition to this legislation. He further said that the law was asked for by himself and associates in behalf of, and in the interest of, organized labor. Here is consequently a clear, unequivocal, and incontrovertible class issue, defined by Mr. Gompers himself. The employers of the country are a unit on one side and organized labor, if you please, on the other. In the face of this kind of testimony and from such a source there appears no room to question the character of this bill. It is advocated by a class in the avowed interest of a class, while it is opposed by another class who are unanimous in their opposition to it. Such legislation from the foundation of this Government down to the present time has been characterized and construed by the courts of the country as vicious.

2. The proposed law, while ostensibly confined to Government work and Government contracts in its ramifications, necessarily enters the domain of private contract, which is a violation of individual rights and should be fatally objective on that ground alone. Mr. Gompers further stated in his same address before this committee that the various ramifications into which Government contracts would divide up, such as the gathering of raw materials, as well as finished materials, it would embrace callings and trades practically covering the entire field of industry.

3. If not intended to be the practical beginning of an eight-hour day—and all arguments by the advocates of organized labor clearly indicate that such would be its effect—it can still be made such by the forces of organized labor through methods peculiarly their own. These methods stop at no statutory provisions when their ends are to be attained, so that in following up the various materials which enter into Government work they can proclaim a boycott against that made under a longer system, and thus obtain by force what they dare not ask for by law. This is done in other constructive work, and why not apply to the Government work as well? Certainly no legal facilities should be afforded one class to perpetrate a wrong against another class entitled to the same consideration, governed by the same laws, and like citizens of a common country.

4. An eight-hour day, as thus insidiously sought to be obtained, would open innumerable objections in its application to specific industries, but it would fall with peculiar hardship upon all the industries of the South, for the simple reason that they are all in a more or less formative stage and can not bear the restrictions which might otherwise be placed upon those longer established and with more skilled labor at command.

5. The cotton crop of the South, worth under ordinary conditions, $500,000,000, could not be produced under an eight-hour day for less than $1,000,000,000. This would directly affect every man, woman, and child in this country, while it would affect injuriously millions of inhabitants of other countries or else it would totally destroy the cultivation of the cotton crop in the South. But it is ever thus with all forms of class legislation where one interest alone is considered. It necessarily reacts injuriously on other interests and yet this Government is supposed to be made for all interests and all classes alike, with no discrimination in favor of one or against another.

There is no limit to factional strife and industrial warfare when class legislation is relied upon and the Government at once ceases to be what its founders intended. Under such legislation this would not be a Government "of the people and for the people," but instead would become a Government of and for labor unions, and I do not think the people of this country are prepared just yet awhile to turn this Government over with its rich legacies received from our ancestors to those who are at least only a part of its citizenship.

Respectfully submitted.

N. F. THOMPSON,
Secretary Citizens' Alliance, Birmingham, Ala.

ARGUMENT OF JAMES DUNCAN, SECRETARY AND TREASURER OF THE GRANITE CUTTERS' NATIONAL UNION, AND FIRST VICE-PRESIDENT OF THE AMERICAN FEDERATION OF LABOR, OF WASHINGTON, D. C.

Mr. DUNCAN. Mr. Chairman, Mr. Gompers, president of the American Federation of Labor, is now present, and I suppose he will close the argument in favor of the passage of this bill. For that reason I will ask your attention a few minutes earlier than I had intended to.

I am extremely glad I deferred what I had to say until the last speaker had addressed you. I represent an organization that is on an

eight-hour working basis, from the Atlantic to the Pacific, including the Southern States. The members of my craft in the Southern States as well as in the Northern, the Western, and the Eastern States, work eight hours a day. I advise my friend from the South, who says that my class is a vicious class——

Mr. THOMPSON. May I interrupt the gentleman?

The ACTING CHAIRMAN. I will state that at the close of the remarks made by any gentleman if anyone thinks a correction is necessary he will be given an opportunity to make it.

Mr. DUNCAN. It was my privilege quite recently to address a large meeting in the city of Atlanta, at which this eight-hour day question was discussed. Later on I went to a near-by city and had the honor of being introduced to a packed audience. When I say "packed" I mean that every available bit of space in the hall was occupied and that the seats, the aisles, and the gallery were crowded. The mayor, in introducing me to the audience, said that he took great pleasure in doing so because the reduction of the hours of labor in that special locality, led by the trade I have the honor to represent, had produced an effect which I will endeavor to give you in his own words: When the work men were following the long workday and had little hope in that locality but to work and die, they were not a desirable class, speaking generally, a great portion of the whites and a large portion of the blacks being included.

This was true to such an extent that the city fathers figured upon fines for drunkenness, fighting, and disturbances of all kinds as forming quite a percentage of the revenues of the city; but at the present time, since the eight-hour day came and brought a shorter workday, the condition was such that they scarcely ever saw or heard of a drunken man in that locality, and the fines from rowdyism by the working people and disturbances of every kind had been reduced to such a minimum that the city officials could not reckon now upon any percentage of the city income from that source. I put this forth as an argument against the statement made that we are a vicious class, and in favor of giving to our people, by such methods as we can, an occasional leisure hour.

If their statements were true, if it is also true that this is purely a socialistic proposition, what company do you suppose we should find ourselves in? When President Roosevelt was governor of New York State he recommended to the legislature of that State the enactment of an eight-hour day for the employees of the State of New York. The bill passed and he signed it. He has recommended to Congress the passage of this law. Is President Roosevelt a vicious man? Is he socialistic in his tendencies? Is he such a man as is a danger to the community?

The ACTING CHAIRMAN. I think, Mr. Duncan, it is only fair to Mr. Thompson to say that, as I understood him, he did not say that the laboring class was vicious, but he characterized legislation of this sort as vicious.

Mr. THOMPSON. I did not once refer to a class of people as vicious, but simply referred to the legislation as being vicious.

Mr. DUNCAN. Even if we take it in that modified form—and it is very kind of you, Mr. Chairman, to come to his assistance and modify it in that way—then those who favor vicious legislation must of necessity be more or less vicious. We can not rise above our own standard.

If we propose that which is good and advocate that which is good, we can safely be classed as being good; but if we recommend and urge the adoption by Congress of that which is vicious, we can safely be classed as vicious.

Speaker Henderson, of the House of Representatives, strongly favored this bill. Speaker Reed did the same thing. President McKinley did the same thing. He not only favored this very vicious legislation when he was President of the United States, but long before his name had been seriously mentioned for that position he was in favor of it. I want to quote to you a few words uttered by President McKinley while he was a distinguished member of the other House, in order to show you whether the men who have been watching and studying this legislation for many years fear it to be vicious legislation. President McKinley said:

> It is one more day's work, one more day's wages, one more opportunity for work and wages, an increased demand for labor. I am in favor of this bill as it is amended by the motion of the gentleman from Maryland (Mr. McComas).
>
> It applies now only to the labor of men's hands. It applies only to the work. It does not apply to material; it does not apply to transportation. It applies only to the actual labor, skilled or unskilled, employed on public works and in the execution of the contracts of the Government. And the Government of the United States ought, finally and in good faith, to set this example of eight hours as constituting a day's work required of laboring men in the service of the United States. [Applause.] The tendency of the times the world over is for shorter hours for labor—shorter hours in the interest of health, shorter hours in the interest of humanity, shorter hours in the interest of the home and the family—and the United States can do no better service to labor and to its own citizens than to set the example to States, to corporations, and to individuals employing men by declaring that, so far as the Government is concerned, eight hours shall constitute a day's work and be all that is required of its laboring force. [Applause.]

I put in evidence the statements from some of our leading public men in order to show that some, at least, of the men well known in the history of this country do not consider the proposition we present to be vicious.

A great deal has been said before this committee and before the committee of the House of Representatives about the scope and purpose of this bill. We have been told that it affects the laborer in the cotton field and the lumber interest, that the lumber may eventually find its way into vessels built for the United States, and, as a joke, it has been suggested that it might even affect the mules that haul the lumber or any other material required for a public building. It has also been said that our proposition is class legislation. If it is class legislation it has been so since 1868, and it has been favored by almost every President of the United States since that time.

No President made a stronger effort to have the purposes of the eight-hour bill carried into effect than did President Grant during his first and second Administrations. The bill since then has been somewhat amended, but the original law showed the tendency of the Government at that time. Following the great building era that took place in the United States at the close of the civil war, it was expected that most of the work for the Government would be done by direct employment, and most of the great buildings that were erected at that time were erected under the day's work system. That is to say—contractors and subcontractors were not used. You take this magnificent building alongside of the White House, the State, War, and Navy Department building, the New York post-office, and other buildings

of that kind throughout the country, built during the Grant Administration, and carried out from plans made by Mr. Mullett when he was Supervising Architect, and you will find that the idea of Congress was that the work should be done by day labor. At that time they also thought the arsenals and navy-yards would be built by the Government direct, and vessels would be built by the Government direct instead of by contract.

For that reason the original bill was not drafted in the way we find it necessary to have the bill drafted at the present time. That is to say, only by inference did it refer to contractors and subcontractors. Later on those interested, finding that the old 15-per cent system of Government building did not make them millionaires fast enough, although they became the owners of thousands of dollars in a short time, used their influence to have the Government work done by contract instead of by direct employment. As soon as the contract system commenced it was found by the Government officials that the law passed in 1868, which was declared to be in force by President Grant, did not contemplate the employment of men by contractors and subcontractors upon Government work unless the men were employed upon buildings where the land upon which they were built had been ceded to the United States or work upon vessels in the navy-yards owned by the Government.

The decisions given by the Attorneys-General and by other Government officers had that effect on the eight-hour law that was passed in 1868 and later amended and approved while President Cleveland was President of the United States. It contemplated the direct employment by the Government of contractors and subcontractors for Government work, provided the men were employed upon a lot or dock that was the property of the Government. Therefore, if a contractor proposed to build a post-office for the city of Washington or in any other part of the country and he prepared his material a mile away from the site of the building the law did not affect the employment of labor for that building; but when he brought the material to the lot where the building was to be erected the law did apply. The purpose of the labor organizations since those decisions has been to place contractors and subcontractors on Government work on the same plane and in the same position with reference to the Government as they already were upon Government lots and sites prior to that time. That is the whole story from the beginning to the end; and all of these side issues which have been brought into the matter show that those who present them have but very little knowledge of what they speak.

I hold in my hand the United States Government Advertiser, in which page after page is found of advertisements for supplies for the different branches of the Government. There has been no objection raised since 1879, when President Grant declared this law to be positively in effect, that it was wrong for the Government to advertise for supplies in this manner. This paper was printed on the 3d of March, 1904, and there are here pages of all sorts of supplies that are advertised for by the Navy Department.

The men who are employed in the different navy-yards and arsenals of the country by direct employment are upon the eight-hour basis, and the Government purchases in the open market supplies that are called for by those men. Our bill says that the men employed by the contractors and subcontractors for the Government shall work eight

hours a day, in the same manner exactly as the Government now hires men directly to work eight hours a day. It says that they may purchase supplies in the open market, exactly in the same way that the different Governmental Departments are advertising and purchasing them at the present time, and as they have been doing for a third of a century, without any objection upon the part of those gentlemen who come here and say that such legislation is vicious.

There has been no question raised about the different departments of the Government operating under the eight-hour day being vicious. There has been no suggestion that they could not buy lumber unless it was felled under an eight-hour day and trimmed in the forest under an eight-hour day. There has been no such contention as that in connection with this matter from 1879 to the present time; and yet because our bill asks for the very same thing, where contractors and subcontractors are employed to perform work for the Government, we are told that it is vicious. Why? How? In what form? If these contractors, corporations, and attorneys, the latter in particular, find that this legislation is vicious, why did they not previously attack the present system?

They have tried to create the impression that this legislation would interfere with the system of bidding on supplies for the different Departments of the Government. No question of that kind has been made heretofore. There is no difference between the two systems. The Bethlehem Iron Works advertise in this paper for furnishing supplies to the Government, and there is no representative of that company or any other corporation in the country that can draw the line between the system which has been in force, so far as supplies for the different Departments of the Government are concerned, from 1879 down to the present time, and our proposition as contained in this bill. Under the old system they are bidding and furnishing supplies to the Government; but under our proposition, which is the same system, they say it is vicious and class legislation and that the Government ought not to interfere.

Speaking particularly for the building trades, I desire to say that some of the attorneys for the opposition a very few years ago used to taunt us severely in this room for not endeavoring to put into force in private employment what we ask the Government to enact. My trade accepted the challenge and we are working upon an eight-hour day. We got tired of waiting and we thought that through our own trade organization we could get an eight-hour day, and we did.

Senator DOLLIVER. I understand that is universal throughout the country.

Mr. DUNCAN. I said it was universal from the Atlantic to the Pacific, including the Southern States.

Senator DOLLIVER. Does your organization include the entire body of granite cutters in this country?

Mr. DUNCAN. Yes, sir; the entire body of granite cutters in every State in the Union.

Senator DOLLIVER. There are no independent granite cutters?

Mr. DUNCAN. No, sir. I think about 97 per cent of our trade are members of my organization. The employers agree with us that the eight-hour day is one of the best reforms they have instituted.

Senator DOLLIVER. Do they allow you as much pay for the eight-hour day as you formerly got for ten hours?

Mr. DUNCAN. In the higher-paid sections of the country the wages have remained practically the same; but in the lower-paid sections of the country the wages have increased 23 per cent, by mutual consent between the employers and the workmen.

Senator DOLLIVER. What are a day's wages for a granite cutter?

Mr. DUNCAN. The minimum wages at the present time are $3 per day for an eight-hour day.

Senator NEWLANDS. What is your maximum?

Mr. DUNCAN. The highest rate we have is in the city of Butte, Mont., where our men are paid $6 a day for an eight-hour day. Labor of all kinds and the expense of living of all kinds is very great there.

Senator DOLLIVER. Does the union make any difference between persons who are specially skillful and effective in their work and persons who are not so skillful?

Mr. DUNCAN. Yes; we establish a minimum rate and then the individual and the employer agree upon what rate a skillful man shall be paid above the minimum rate. The highly skilled men are paid as much as can be agreed upon between them and their employer, over and above the minium rate. In the soft-stone trade the workmen are on an eight-hour day for about nine-tenths of their work, and on the 1st of May of this year there will be a universal eight-hour day in the soft-stone trade. Nine-tenths of the bricklayers are working eight hours a day.

Senator DOLLIVER. Would the same motives that lead everybody to acquiesce in the eight-hour day for the granite cutters be equally applicable to trades that were not as burdensome as that occupation?

Mr. DUNCAN. Yes; I think so.

Senator DOLLIVER. In other words, is there not a special reason, arising out of the character of the occupation, which would suggest a limitation of the hours of labor, that might not be applicable to an easier or more healthful pursuit?

Mr. DUNCAN. No; when we were working ten hours a day, as we did some twenty-odd years ago, we performed about the same amount of labor in a ten-hour day as we do now in an eight-hour day, and we now have two hours of extra time.

Senator DOLLIVER. You do not catch my point. Occupations differ in the burden which they lay on individual workers.

Mr. DUNCAN. Yes.

Senator DOLLIVER. Is there such a difference between the occupation of stonecutting and the lighter crafts or occupations as to justify a shorter hour for the stonecutter than for the worker in some other trade?

Mr. DUNCAN. Absolutely not. Only a part of the work of the stonecutter comes under the head you have in mind. There are parts of it which are as light as the work of a clerk. Carving, for instance, and letter cutting, and ornamental work in stone is extremely light work.

Senator NEWLANDS. Do the members of your association work in granite only, or do they work in stone of all kinds?

Mr. DUNCAN. Only in granite; in hard stone that requires the use of hard-tempered steel.

Senator NEWLANDS. On an average, how many days in the year are the men in your craft employed?

Mr. DUNCAN. Excepting in the extreme north, where the weather interferes sometimes with the quarrymen, they are employed the year

around. There is nothing in the trade to prevent them from working the year around so far as the material is concerned, or so far as the health of the men employed in the work is concerned.

I have been before this committee once or twice before, and it was always my pride, to say that, until the recent discussions, I had never known of a prominent builder who had taken a stand against this proposed legislation; but I find by looking over one of the reports upon the table this morning that at a recent hearing you had a man before you from St. Joseph, Mo., who claimed to represent the stone trades in that locality. As a matter of course, in the State of Missouri the men who are cutting granite work eight hours a day; and if he is interested in granite cutting in Missouri, he is hiring men who work eight hours a day. There is not a man cutting granite in that State who does not work under the eight-hour system. If that is not true in so far as the marble cutters are concerned, it will be true after the 1st of May; and to the best of my knowledge at the present time every marble worker in the State of Missouri, in the building trade, is working under the eight-hour day.

The ACTING CHAIRMAN. Let me ask you how general that is in the country, if you know?

Mr. DUNCAN. About seven-tenths of the marble cutters and the sandstone and brownstone cutters are working on the eight-hour day; and by a recent convention a universal eight-hour day goes into effect from the Atlantic to the Pacific on the 1st of May, 1904.

The ACTING CHAIRMAN. That will cover all stone work?

Mr. DUNCAN. Yes.

The ACTING CHAIRMAN. May I ask you if the marble workers are organized separately?

Mr. DUNCAN. They are not organized in the same way that the granite workers are organized. In the monumental trade they have local and distinct organizations. There are local organizations of marble cutters, the members of which follow nothing but marble cutting. There are others who follow nothing but brownstone cutting, and others who follow nothing but sandstone cutting.

The CHAIRMAN. I was going to ask you whether the marble cutters were allied with the soft-stone cutters or with the granite cutters?

Mr. DUNCAN. It is a portion of the soft-stone trade; but sometimes they have local organizations of their own. In so far as the building trades are concerned we may practically say they are all agreed upon an eight-hour day. If that were not so you would have had quite a number of protests from the allied builders of the country against this proposition. They find that, under the application of the eight-hour day, the men are more alert, that they attend to business better, and that everything going to make up a good citizen has been improved because of the change.

This idea that because a man has an extra hour of time he is going to spend it in a saloon is all bosh. There is nothing to support that theory that can be found from statistics in any part of the United States. It has been investigated by the labor bureau under Carroll D. Wright, and by the labor departments in the different States, and such objections can not be maintained.

I have already consumed more time than was allotted to me and I have but little more to say. I take it for granted that you accept my statement about these supplies advertised in this paper, because copies

of the paper can be very readily obtained, and I assume it is unnecessary for me to do more than mention it.

But before I sit down I want to call your attention for a moment to an incident which recently happened to me, which is of considerable importance. I was called upon recently to go to the State of Vermont on business, and it happened that on the day I passed through the city of New York, Mr. Oscar Strauss had invited certain labor men to meet Andrew Carnegie, prior to his departure from this country to Great Britain. I was one of those who were invited, and as the date suited me I attended Mr. Strauss's dinner and had the pleasure of discussing pretty fully all the phases of the labor question with Mr. Carnegie. That may appear to be unimportant, as he is now a high private in the ranks; but it is of more than ordinary importance nevertheless.

The first point that we discussed was the trade agreement to eliminate strikes and lockouts. When our system of trade agreements was made known to Mr. Carnegie he said in the presence of the manufacturers, and there were a number of large employers present, that the system we have in the labor organizations for the elimination of strikes and lockouts under our agreements was the best in existence that he knew of, and that it was far better than anything that could be done in the line of arbitration by any governmental power. We traveled along the line, and finally we got to the eight-hour question. I could not let an opportunity like that get away without introducing the subject, because it is extremely dear to my heart. I have worked hard for the passage of this law because of its practicability, and I desired to have the opinion of a man like Mr. Carnegie upon the principle involved in it. We discussed the point for perhaps eight or nine minutes, when Mr. Carnegie rose and said that he was going to make a statement which would, perhaps, facilitate the discussion of the evening. He said that the eight-hour day was such a fair proposition that the employer or corporation that did not favor it did not know its business.

Upon one side of him, the second place from him, sat Mr. Weihe, who had been president of the Iron and Steel Workers' Association, and in the second place from him on the other side sat Mr. Garland, who had succeeded Mr. Weihe as president of the Amalgamated Association. He turned to them and said: "Gentlemen, I want you to testify before this company present who was the first man in the iron business that favored the eight-hour workday and first introduced it in his business?" In one moment both of the gentlemen answered, "Mr. Carnegie, you were." He told us that he spent $50,000 in his mill endeavoring to introduce the eight-hour workday, and that he had worked harder with the other owners of mills and employers of iron workers for the system than he had ever worked with any workman in any trade dispute in order to have it introduced. He said that his workmen produced a great deal more for him on the eight-hour day, while he was trying the experiment, than they had produced in any eight hours while they had been employed by him prior to the introduction of the system, but that no man could produce as much in eight hours for him as other men were producing in twelve hours for his competitors, and that after he had tried the system for months and had spent $50,000 in the attempt to get others to introduce it in the business, he had to give it up because of the opposition of the employers

in the iron and steel mills of Pennsylvania, and not because the proposition was not practical. He made that statement before all who were present at that time.

Mr. Moore, one of the largest employers in the metal business in New York State was present. Mr. Strauss was present, and, of course, presided at his own dinner, and other large employers were there and heard Mr. Carnegie make that statement. He arose to say that there was no use in discussing the eight-hour question at that dinner, because, he said, "I thoroughly agree with the representatives of organized labor that the eight-hour workday is proper." If Andrew Carnegie, practical man as he was, found that the eight-hour workday was practical in his mill, and that it was only the question of competition which prevented its introduction, it surely would be practical for other manufacturers in the same line of business.

I want to call your attention to the fact that the objection stated here by certain iron men about changing men when the work is at a certain stage is all mythical. When the eight-hour system was in use in the Carnegie mill the men were changed at the end of every eight hours. They had three shifts of eight hours each, instead of two shifts of twelve hours each. If the proposition had not been practical and fair and just and proper Mr Carnegie would not have made the statement I have just repeated to you.

Senator DOLLIVER. The statement which he made seems to indicate one of the troubles we have to contend with. The Government, in dealing with these iron and steel mills as subcontractors, puts them in the attitude of using the eight-hour day without at all constraining their competitors to do the same thing. It has been claimed here with some force that if the Government introduces the eight-hour day into the steel mills it will almost immediately result in putting that entire mill upon an eight-hour basis or else will plunge it into an uninterrupted fight on that subject. It has been very forcibly suggested to us that in such a case the mills, rather than undergo the disadvantages incident to a fight about an eight-hour system, would forego participation in Government contracts altogether rather than change to the eight-hour system.

Mr. DUNCAN. The experience of Citizen Carnegie bears out the very opposite.

Senator DOLLIVER. The experience of Mr. Carnegie was that the failure of his competitors to adopt the eight-hour day drove him back to the twelve-hour basis.

Mr. DUNCAN. Their failure to change from a twelve to an eight hour day.

Senator DOLLIVER. If the Government forces a few of them to the eight-hour basis, their disadvantage, as compared with their competitors, might be such that they would drop Government contracts altogether rather than undergo that disadvantage.

Mr. DUNCAN. The tendency is not in that direction. The application of the eight-hour system in these different mills would have the effect of bringing the competing mills to an eight-hour day.

One objection that was raised to this form of legislation both here and before the House committee was that it would be impossible to meet foreign competition upon this basis. That has frequently been brought forward, but it is only recently that the objection of local competition has been advanced as an argument against the bill.

Senator DOLLIVER. That objection has been made here several times within my recollection.

Mr. DUNCAN. I remember very distinctly when our friend, Mr. Cramp, from Philadelphia, came here and testified that he could successfully operate his works in the winter time on the eight-hour day, when there was not enough light to work them longer; and that he could successfully compete with foreigners in building war vessels, and as an illustration he mentioned a case where he had competed with French shipbuilders for the building of a Russian war ship. He contracted to build a vessel in two years and a half for a considerable smaller amount of money than the French had bid to complete the vessel in five years. From that time to this I do not believe there has been much said about the foreign end of it.

Now, the objection of local competition is made. If one mill or two mills in the iron industry or any other industry would be the only mills affected by the change of the working hours, then that proposition might have some weight; but inasmuch as our leading iron mills of the country are turning out more or less Government work, they would all be affected in the same way. We believe that this legislation is fair. We claim that it has been unjust to the working people of the country who have been employed by contractors and subcontractors, since the Government work has been largely done by them, to require them to work more than eight hours a day when there is an existing law the principle of which recognizes for Government work an eight-hour day. If it is just and proper, and we hold it is, that people employed directly by the Government, under the existing law, should work only an eight-hour day, then it is logical and fair for the Government to also say that for such part of its work as is performed by contractors and subcontractors the same conditions shall prevail.

I hope the committee will favorably report the bill, and I have confidence enough in the Senate to believe that if the bill is reported favorably and an opportunity given to get it up for discussion it will be passed. The House has passed the bill several times and the principle involved has been passed upon once or twice by the Senate by a strong vote. If there had been time enough then to get the bill through the House we could have had the law then perhaps, although not in as good form then as it is in now. I believe it is in better form now than it ever has been. We believe the bill is constitutional and are willing to take our chances upon the constitutionality of the act. We know that Congress would be slow to pass an act that was unconstitutional. If the Senators and Representatives believe this act is unconstitutional then some change should be made in it to make it constitutional. But we claim that the position of the gentlemen on the other side is unfair when they say that the act is unconstitutional. If they believe the act is unconstitutional, then they should be at home attending to their business, paying no attention to an unconstitutional act, but should rely upon the courts to knock it out as soon as they have a chance at it after it has been passed.

I hope you will return a favorable report upon this bill, and I thank you very much for your courtesy in giving me this hearing.

Mr. THOMPSON. Mr. Chairman, the entire speech of the gentleman from the beginning was intended to put me in a false light, and I wish to correct the impression he has sought to give. I made no statement

that any class of people in this country was vicious; I did state emphatically that this legislation, if it was class legislation, as I believed it to be, was vicious, and that it would be so decided by every court in this country.

Mr. GOMPERS. Including tariff legislation?

ARGUMENT OF JAMES H. HAYDEN, ESQ., OF COUNSEL FOR THE CARNEGIE STEEL COMPANY, IN OPPOSITION TO THE BILL.

Mr. HAYDEN. Mr. President, and gentlemen of committee, there appears to be substantial disagreement concerning the meaning and scope of this bill. To understand it we should review the earlier legislation, to which Mr. Duncan has alluded. In 1868 there was passed an eight-hour law. That law was drawn in question in two or more cases (Averill *v.* U. S., 14 C. Cls., 700; Collins *v.* U. S., 24 C. Cls., 340; Driscoll *v.* U. S., 96 U. S., 582), which were adjudicated by the Court of Claims and reviewed on appeal by the Supreme Court of the United States. The act provided that eight hours of labor should constitute a day's work for laborers or mechanics employed directly by the United States and paid by it. The court held that the effect of the act was to give a man employed by the Government a right to receive a day's pay for eight hours of labor and extra pay for extra work. It was held that laborers in the employ of contractors were not within the scope of the bill.

The act created a unit of measure to regulate Government wages—a unit called a day's work. That is all that the first act provided, and no other kind of legislation can be found on the statute books prior to the act of 1892, known as the present eight-hour law. Between 1868 and 1892, acts had been passed providing that eight hours should constitute a day's work for letter carriers and for employees of the Public Printing Office. But at times they all worked for more than eight hours daily, and they all got more than a regular day's pay, when they were entitled to it.

Then came the act of 1892, which provided that eight hours should constitute the lawful limit of a day's work, performed by any mechanic or laborer in the employ of the United States or in the employ of a contractor or subcontractor on "public works." It has been held that that act is constitutioual. (U. S. *v.* San Francisco Bridge Co., 88 Fed. R., 891.) It did not interfere with private work and was not class legislation, inasmuch as public works are matters wholly within the jurisdiction of the Government, and it can prescribe the manner in which such work is done.

Here the question arises: What are public works? Public works are matters which from the beginning belong absolutely to the Government—works of a fixed and permanent nature, such as the erection of public buildings, the construction or repair of public streets and sewers, which, being affixed to soil which belongs to the Government, become the property of the Government as the work progresses. As the various materials are installed in a building they pass to the Government under the well-known maxim that what is affixed to the soil pertains to it and belongs to the owner of it. In this act the limit was reached to which it is constitutional and proper for Congress to go in attempting to regulate the labor of workmen and mechanics.

I notice on the printed report of the hearings on this bill, had before

this committee, the legend "Eight hours for laborers on Government work"—that being intended to describe the object of the present bill. I deny that the object of the present bill is to fix a limitation on Government work alone, because that was done by the act of 1892, and this new bill is not intended to be meaningless. Its obvious intention is to invade private establishments and regulate private work done in private establishments which have contracted with the United States to deliver to it certain chattels. Where the United States makes a contract for the manufacture and delivery of a chattel—it may be a button or it may be a battle ship—that chattel is, until delivered to the United States, the property of the contractor. His work done upon it is not Government work. He is working for himself. He is responsible to the United States only for the delivery of the chattel, which must fulfill the requirements of his contract. The Government can not dictate the manner in which he does his work. He can construct one part of the chattel first and another part last, as he sees fit. He is merely required to deliver what he bargains for.

I am borne out in this contention by the decision of the Supreme Court of the United States in the case of Clarkson *v.* Stevens (160 U. S., 505). That case grew out of a contract for the construction of a war vessel. As is usual in such contracts the contractor agreed to furnish materials for the vessel and to deliver her, complete, within a certain time and that she should fulfill certain requirements. It was provided also that as the work upon her progressed all materials should be inspected by agents of the United States and approved by them before being installed in the vessel. The Government required the contractor to give bond conditioned for the faithful and efficient performance of his contract. The Government agreed to pay the contractor installments of money on account of the contract price as the work upon the vessel progressed. The question at issue in the case was whether the Government acquired any proprietary interest in the unfinished vessel or in the materials which it had inspected and approved and on which the Government had made part payments. The Supreme Court said no; that the contract for the manufacture and delivery of a chattel gives to the person who has bargained to receive and pay for it no proprietary interest until delivery and acceptance; that the vessel in question was not the property of the Government and could not become so until she had been completed and delivered.

The present bill is intended to apply to all manner of contracts. The first section provides that every contract to which the United States or any Territory or the District of Columbia is a party shall contain a clause to the effect that eight hours shall constitute the limit of a laborer's day, and that no contractor or subcontractor shall allow or permit a laborer to work for a longer time. We say that that would be an unconstitutional invasion of the private rights. We believe that we have support for our contention in the opinion of the Supreme Court in the case of Atkin *v.* Kansas (191 U. S., 207). The principal issue there was whether a law of the State of Kansas was valid or not. The statute made eight hours the lawful limit of a day's work by laborers in the employ of the State or in the employ of contractors or subcontractors engaged in the performance of contracts to which the State was a party. It was declared to be a misdemeanor for any such contractor or subcontractor to require or permit any laborer in his

employ to work beyond the limit named or to make a contract with a laborer providing that the latter should work for more than eight hours daily.

The defendant, Atkin, who had a contract with Kansas City for the repair of a public street, agreed with one of his laborers that the latter should work for ten hours daily. He was charged with a violation of the statute. The case came on for hearing on an agreed statement of facts, which contained recitals of the facts mentioned, and stated that Atkin had both compelled and permitted the laborer to work more than eight hours a day. It was stated, furthermore, that the man could very well perform ten hours of such work daily without prejudice to his health, without creating a nuisance, and without shocking the morals or sensibilities of the people of the State. The supreme court of the State decided that the contractor was liable for the penalty prescribed. On appeal this decision was affirmed by the Supreme Court of the United States, which held that the repair of a public street was a work within the exclusive jurisdiction of the State of Kansas, the street being its property; hence the statute, as applied to the case under consideration, was not in conflict with the Federal Constitution, because there was no invasion of private rights or personal liberties.

Mr. Justice Harlan, who delivered the opinion, said:

> No question arises here as to the power of the State consistently with the Federal Constitution, to make it a criminal offense for an employer in purely private work in which the public has no concern to limit or require his employees to perform daily labor in excess of a prescribed number of hours.

Thus the court was careful to limit the effect of its ruling to contracts dealing with public works, such as streets. Again, Judge Harlan said:

> Whether a similar statute applied to laborers or employees in purely private work would be constitutional is a question which we have no occasion now to determine or even to consider.

In conclusion, he said this:

> We rest our decision upon the broad ground that the work, being of a public character, absolutely under the control of the State and its municipal agents acting by its authority, it is for the State to prescribe the conditions under which it will permit work of that kind to be done. Its action touching such a matter is final so long as it does not, by its regulations, infringe the personal rights of others; but that has not been done.

This decision does no more than uphold the validity of statutes like the eight-hour law of 1892, which affects only public works. The Kansas statute was intended to govern all contracts of the State, but the Supreme Court of the United States was not required, and actually refused, to decide whether such a limitation applied to private work done under a contract to manufacture and deliver a chattel would be valid. If any part of an act or any operation of an act be constitutional, it may, so far, be upheld, but declared invalid as to other parts, which would be unconstitutional. (Bank *v.* Dudley, 2 Peters, 492.)

My contention is that the moment Congress attempts to say that a man who agrees to furnish to the Government a gun carriage or other war material, or clothes for the Army, or ink or pencils, must not require or permit his workmen to labor either more or less than a given time daily, it invades private rights and liberties which are guaranteed by the Constitution. Such a contractor, while producing articles that

he has agreed to deliver, is working for himself and his work is private.

Senator DOLLIVER. Do you not distinguish between work that is being done directly for delivery to the Government and work that is being done for outside parties?

Mr. HAYDEN. There is absolutely no distinction. The decision of the Supreme Court of the United States, rendered by Mr. Justice Field in the case of Clarkson *v.* Stevens, which I have cited, bears me out on that point. Where the Government has no proprietary interest in the article on which work is being done by a contractor and is only concerned in having the article delivered to it in condition suitable for its use, the work is not Government work and is in no sense public. In a recent argument before the House committee I used this illustration: Suppose a member of this committee should go to a tailor and order a suit of clothes. He would be under contract to pay a certain price for the clothes when delivered, provided his instructions had been complied with. The tailor would not be working for him. He would not be his agent or his employee. The tailor would proceed with his work at his own risk. He would retain all rights of property in the clothes until he delivered them. The person who ordered them from him could not get possession of them by an action of replevin or by any legal means. His only remedy would be by action for damages, if the tailor did not perform his contract.

Senator DOLLIVER. Could not the Government in one instance by law, and the individual in the other instance by contract, change the relation?

Mr. HAYDEN. Possibly; but I do not say that the Government could do so. Judge Harlan in the Atkins case stated that the Kansas law as applied to public work was valid, but intimated that the case bordered on the line beyond which it would not be proper for a State to go in interfering with the dealings between employers and employees, invading the rights of both. Possibly the Government might say this to a shipbuilder: "We shall accept, buy, and own all of the materials which you use in this work, and as your work proceeds we shall inspect, approve, and accept it, so that the work at all stages shall be our property and not yours; that it shall be done at our risk and not at yours." There would have to be a proprietary right in the Government in order that the Government might say: "This is public work, and we shall regulate it as we see fit, limiting the duration of daily labor performed upon it by laborers and mechanics to eight or any fixed number of hours." That has never been done, and the possibility of it has never been discussed before.

The ACTING CHAIRMAN. As I understand the opinion of Mr. Justice Field, he was discussing the question of title based on the common-law rule in the absence of any statute varying the rule.

Mr. HAYDEN. He said that under a contract in all respects like contracts of the present day for the production of chattels and their delivery to the United States the Government acquired no proprietary interest in the chattel until its delivery. That being true, I contend that the work done by the contractor is private, that the Government has no concern in work done on private property in which the Government can have no proprietary interest.

The CHAIRMAN. Could there not be a difference between the interests of the Government in the sense of "concern" and a proprietary interest or right in the property itself?

Mr. HAYDEN. I believe that if the Government were to attempt to control work done upon property in which it had no proprietary interest and assumed to dictate the manner in which the work should be done, it would invade private rights and violate the great fundamental principles of the Constitution, which were intended to preserve to the employer the right to bargain for labor and the right to the laborer himself to determine how long he will work and what he will charge. (Re Bricklayer's Union, 23 Law Bulletin, 50; Wheeling Bridge Co. *v.* Gilmore, 8 Ohio C. C., 665; Rights of Man (Abbott), 106.)

Senator DOLLIVER. Is there any limit to the inspection, reception, rejection, or manner of placing material in a Government war ship to be built by a contractor, fixed by a law passed prior to the making of the contract, or in the contract itself?

Mr. HAYDEN. Do I understand you to ask whether a contract could be so drawn that the United States might acquire proprietary rights——

Senator DOLLIVER. I am asking you if there is any limitation to the control which the Government may retain, either by law passed prior to the contract or by the terms of the contract, over the manner of the construction of the vessel, its acceptance, rejection, the character of the work, or the character of the material, prior to its final acceptance by the Government.

Mr. HAYDEN. Of course the Government, like anyone else, has the right to provide certain conditions with which the article contracted for must comply. Take the instance I mentioned a moment ago of the tailor who receives an order for a suit of clothes. You have the right to select the cloth of which your suit shall be made. You have the right to say how it shall be made. It is competent for the United States in a contract for the construction of a battle ship, to provide that she shall be built of a certain material and in a certain way, for the Government, as a buyer, is concerned in such things which affect directly the character of the article to be delivered. But for the Government to say to the contractor, "You shall not permit your workman to perform more than so many hours of labor in a day," would be a different matter. There we should have nothing which could inure to the benefit of the Government, and should have a purely arbitrary interference with the contractor's business. The only concern which the Government has in such matters is to get efficient material and to get it economically.

The ACTING CHAIRMAN. Then, as I understand you, you make a distinction between the right of the Government to interfere as to those things which relate to the ultimate efficiency and character of the work itself and its right to interfere upon the question as to how many hours a day the men may work upon it?

Mr. HAYDEN. Yes; I say that where the Government has made provision for all characteristics of the thing to be constructed and for the manner of its construction it has gone to the utmost limits permissible. It can have no concern, for example, with the number of hours that a laborer may drive rivets daily or may stand at a lathe.

The ACTING CHAIRMAN. Do I interrupt you or distract your line of thought by asking you these questions?

Mr. HAYDEN. Not at all; I shall be happy to answer any questions that I can.

The ACTING CHAIRMAN. Assume, then, that the Government should declare that it was so far for the interests of the Commonwealth as to

warrant the establishment by the Government, within its constitutional limits, of an establishment of the eight-hour basis. Would not the ultimate interests of the Government then attach as certainly to the question of hours of employment as to anything else that in the end simply went for the public good as well as to the efficiency of the ship itself?

Mr. HAYDEN. I do not think so. Ever since the contractual dealings between the Government and its citizens have been the subject of review by the courts it has been held that the citizen deals with the Government precisely as it would with another individual. That other individual can go no further than to protect his own proprietary interest in an article which is in course of construction. Neither can the Government do so. The contractor is not the agent of the Government. He is dealing with the Government as though the Government were another citizen, and they are on an equal footing.

I pass to another question. It is raised by the exceptions enumerated in the second paragraph of this bill, to which the eight-hour limitation would not apply. By it we are plunged into a sea of uncertainty. That paragraph, if enacted in its present form, would lead to much litigation, confusion, and trouble. After mentioning the exception in favor of contracts for transportation by land and by water, and for the transmission of intelligence, we find this:

> Or for such materials or articles as may usually be bought in open market, whether made to conform to particular specifications or not.

We know that the great majority of things purchased by the Government under contract are not found in the open market. You do not find war material in the open market. There would be no sale for it. You do not find gun carriages in the open market. You do not find shells or the sort of explosives used in warfare in the open market. You do not find cloth such as is used to make uniforms in the open market. You do not find military buttons in the open market.

My contention is that the Government, in advertising, we will say, for a certain number of yards of military cloth or for a certain number of uniforms, would have to insert in the contract the provision set out in the first paragraph of this bill. The cloth or uniforms would not fall within the exception, because if the Government for any reason should reject them the goods would not be salable. A gilt button, in general, is an article that may "usually be bought in the open market," but if you stamp "E pluribus unum" on it or put an eagle on it it takes on an official character which destroys its availability for sale. It has been said by the chairman of this committee at former hearings that the exceptions would embrace many things procured by the Government under contract—that it would apply to machinery made for the Government—but I submit that if this bill were to be enacted, the eight-hour limitation would govern the purchase of practically every article, material, or supply procured for the use of the United States. The cost of all things to the Government would be materially increased.

The ACTING CHAIRMAN. Then you would construe the bill to be practically a nullity, so far as it relates to articles usually purchased in the open market and made under particular plans and specifications?

Mr. HAYDEN. My contention is that the exceptions would apply only to such things as flour and perhaps rough lumber and material of

that sort, which would be salable in the open market if the Government did not buy it. But the eight-hour limitation would apply to and would govern contracts for lumber of peculiar sizes which persons other than the Government would not buy. It would govern the manufacture of a dynamo peculiarly designed for use in a naval vessel and not for use in a merchant vessel. Right here permit me to say a manufacturer engaged in the manufacture of such dynamos designed for use in war vessels appeared before this committee and was told that his work would come within the exceptions contained in this second clause of the bill. He went away happy. I think his happiness would be short lived if the bill should be enacted into law. He would be rated as a subcontractor on a war vessel, as his product would be an article not usually obtained in open market. There can be no doubt that these words "or for such materials or articles as may usually be bought in open market, whether made to conform to particular specifications or not," are but sounding brass and tinkling cymbals, yet I am sure that they have misled a great many manufacturers of this country into a false sense of security.

If this bill is intended to affect only a small class of public contracts, then it is clearly class legislation, and as such unconstitutional.

In the case of Conolly *v.* Union Sewer Pipe Co. (184 U. S., 540), there was drawn in question the constitutionality of a statute of Illinois, known as the antitrust act of 1893, which, in general terms, prohibited combinations to prevent competition in trade, to regulate prices, and such transactions; but it contained a clause which excepted from its operation combinations for the same purposes between agriculturists and stock raisers. Mr. Justice Harlan delivered the opinion of the court, saying:

> That such a statute is not a legitimate exercise of power of classification, rests upon no reasonable basis, is purely arbitrary, and clearly denies the equal protection of the laws to those against whom it discriminates.
>
> * * * * * * *
>
> We conclude this part of the discussion by saying that to declare that some of a class engaged in domestic trade or commerce shall be deemed criminals if they violate the regulations prescribed by the State for the purpose of protecting the public against illegal competition and to control prices, and that others of the same class can not be bound to regard those regulations, but may combine their capital * * * is so manifestly a denial of the equal protection of the laws that further or extended argument to establish that position would seem to be unnecessary.

Two gentlemen who preceded me, speaking in behalf of organized labor and advocating the passage of this bill, mentioned the tendency in modern times to shorten hours of labor and the fact that employers are giving more consideration to the demands of their employees I submit, gentlemen, that that is one of the strongest reasons why this bill is unnecessary and why it would be impolitic to pass it. If by mutual agreements covering the entire range of this country's industries and trade the employer and employee are by degrees coming to an understanding in regard to this matter, an understanding which shall never permanently and finally fix the duration of a day's work, but shall leave that matter to be adjusted according to existing conditions and necessities, giving the laborer what is just and proper for him and still preserving to the employer the rights which are essential to the preservation of his business, it would obviously be a mistake for this Congress to create a hard-and-fast, invariable rule which shall

at all times and under all conditions fix the number of hours which shall constitute a day's work. Eight hours of labor daily in some callings may be too much work for a man to do. In others, where the work is easy, it would be absurd to limit the day's work to eight hours. The workman ought to be permitted to work as long and earn as high wages as he can. I submit that no fair and proper standard can be adopted for all parts of the country and all industries. The length of a day's work must be fixed by agreement beween the employer and employee.

Mr. Duncan in his remarks alluded to the attitude of the President toward this bill. I have not had the honor of hearing the President's views or of reading any expression of them with regard to this bill; but on the general question as to what are the rights of the employer and what are the rights of the laborer—the rights of the employer with reference to the management and control of his property and the rights of the laborer with regard to the sale of his labor—he has spoken. I find this in the message which President Roosevelt transmitted to Congress on December 3, 1902:

> Every employer and every wage-worker must be guaranteed his liberty and his right to do as he likes with his property and his labor, so long as he does not infringe on the rights of others.

How can a laborer employed in a shipyard or steel plant, or in any great industrial concern, infringe upon the rights of another if he sees fit to work eight hours and fifteen minutes a day or if he sees fit to work ten hours a day? I submit that this expression of the President's views shows that he could not at the same time understand and approve this bill.

There has been an effort at some hearings of this committee to belittle the effect which this bill would have upon the Treasury of the United States. Under the present eight-hour law, which is restricted in its operation to "public works," the progress of work can be easily watched by a few inspectors. But if you go beyond public works and invade hundreds of private establishments, where perhaps 4 or 5 or 10 per cent only of the work done is covered by contracts with the United States, how many inspectors will it require to ascertain whether any laborer in the employ of such concerns has exceeded eight hours of labor in any calendar day? It would take an army of inspectors to do this. The expense of maintaining them would be enormous. More than that, it has been clearly demonstrated to this committee and other Congressional committees that if manufacturers should find it feasible to continue to deal with the Government at all they would surely increase their charges for what is supplied to the Government. It would be necessary for them to do so, because the cost of the labor involved would be vastly increased. This is no jest, nor a thing that can be explained away, because it is undoubtedly true that a manufacturing plant can not be run with an eight-hour system for certain labor and for certain other labor a variable standard, increased or decreased to meet existing conditions.

Concerning Mr. Duncan's mention of a remark attributed to Mr. Carnegie, I will say, as the representative of the Carnegie Steel Company, that only once, and in one plant, was an attempt made to adopt an eight-hour standard, and then not an invariable and rigid standard like the one provided by this bill, with a penalty attached for the violation of it. It was found that by running three shifts of men a

day, each shift working for eight hours, the product of that mill was decreased by 20 per cent. After a very short trial and after experiencing a considerable loss the mill returned to a twelve-hour standard, working but two shifts daily. The result of the two systems when compared showed that hour for hour on the twelve-hour basis the men did 20 per cent more work. The men were content to return to the longer working day, and that standard still prevails.

I submit, gentlemen, that it is impossible to foretell the effect of this bill. It is certainly a blow aimed at the industries of the country, and particularly at shipbuilding and manufacturers of iron and steel work. From a financial point of view the shipbuilding industry is to-day perhaps our weakest industry. Why strike it down and ruin it, as this bill will do? Something has been said to you about the Cramp Company having contracted to construct a vessel for a foreign government. I take it that reference was made to the Russian battle ship *Retzivan*. It was said that the Cramps agreed to construct her in about one-half the time named by French shipbuilders and at a less cost. The principal reason for this was that the Cramps had a nonunion yard and ran their business untrammeled by dictates of labor unions. I submit, gentlemen, that the bill is vicious, as stated by Mr. Thompson, and I beg that the committee will not give it favorable consideration.

ARGUMENT OF J. E. PATTERSON, OF WILKESBARRE, PA.

The ACTING CHAIRMAN. You may state your name and who you represent.

Mr. PATTERSON. My name is J. E. Patterson. My residence is Wilkesbarre, Pa. I represent the Employers' Association, the J. E. Patterson Company, of Wilkesbarre, and I will say several other firms.

Mr. Chairman and gentlemen, I appear before you to oppose this bill because it is a blow against the interests of this country at large; against the interests of the employer and the employee. I believe it is against the interest of the Government and that it will increase the cost of supplies to the Government. I have been employing men for nearly fifty years. I believe that any conditions that throw business out of its regular channels, such as the law of supply and demand bring about, tend in time to bring about a period of depression. We can not get around the law of supply and demand. We must come back to it. If we go beyond it and force prices too high, there will come a period when they will go under the regular standard under the law of supply and demand. I believe that all of these conditions are against the interests of the people at large.

It has been claimed here by some that the work of the union men who ask for the passage of this bill is all right, and that it is to the interest of the employer as well as the employee. I believe that the unions may be all right. I do not object to them if they keep within the limits of the law, as the law now stands; but when they go outside of the law they are all wrong. I want to give you some of my experiences in the employment of men to show you what conditions exist. Before the union came I had no trouble with my men. Some of them had worked with me for twenty years and some for twenty-five years and some for thirty years. If the men had treated me fairly I must have treated them fairly or we would not have stayed together so long. I understand that they organized a portion of the men in my factory and

when they first came to me they came without the men and without ever having said a word to me. They came on Saturday, or on Monday, and they wanted me to change my system of doing business. They said that my men wanted a change from ten hours to eight hours, and that some of them wanted more wages for eight hours than they had been receiving for ten, and some wanted the same wages.

I told these gentlemen that I was accustomed to make my contracts with my men; that my men had a chance to see me and to be heard by me, and whenever they convinced me I was not dealing fairly with them I would deal fairly with them. The result of it was that on the next Monday morning it had been arranged without my knowledge that all of my men should leave me; that is, those who had joined the union. A portion of my men did leave. The understanding was that they were to close my factory, but they did not close the factory. The majority of my men refused to join the union. Those who had been with me for a long term of years said that they had been treated fairly. One of them said: "I have had my wages raised and I have had my wages lowered. I have never asked for a raise in wages and I have never asked to have them lowered. It has been done in every case without my asking, and I believe it was done fairly." So that when this day came a portion of my men left me and the rest went on with their work and the factory continued. In a very few days came the boycott. The boycott lasted eight months.

The boycott helps some business and others it ruins. In the case of my business it is ruinous, and I must have something behind in order to stand it. If that is fair treatment, then I got fair treatment by the union; but if it is not fair treatment, I did not get fair treatment by them. This thing ran on for several months and then a walking delegate came to me and talked to me in my office for between one and two hours. In the course of that conversation he said to me that Mr. So-and-So, a labor leader, sold out to a man who had a strike, and he declared the strike off. I asked, "Did he get paid for selling out?" He answered, "Yes; he got money out of it." Another man sold out in another case. He went on to describe such conditions to me until I finally said to him, "Why don't you stand by your men? Why is it that your leaders sell out?" He said, "We have to do it; our men don't stand by us and how can we stand by them?" I said to him, "Mr. Walking Delegate, I have not offered you anything, have I?" "No," he said, "and I have not offered to take anything?" I answered, "No; but you have told me just how you manage it, and you could not tell me in any plainer terms. I want to say to you that not one dollar of hire do you get from me to go back on your men. I propose to run my own business in my own way. I propose to treat my men fairly and honestly, and I expect them to treat me fairly." "Well," he said, "we want your men to join the union." I said, "That is a matter for them to determine. I do not care what church or what union my men belong to. I have no objection to the union, but I have objection to some of its measures. I shall not pay any attention to whether my men belong to a union or do not belong to one. I will hire those who can do my work."

It finally came about that I made perhaps what may be termed a compromise with this union, but it was so small and so insignificant that I am almost ashamed to speak of it. I do it to show how little can be done and yet let them consider that they had obtained an entering

wedge, for I believe that is what they did consider it. I agreed to advance the price of two of my men, and I think the whole amount of the advance was 16 or 20 cents a day on the two men. I agreed to run my factory for the time being nine hours a day, with the understanding that I would employ whom I liked and upon any terms that they and I could agree upon. It was further agreed and verbally understood that I should run my factory ten hours a day if I chose to do so when I was crowded with work. Upon that agreement the boycott was declared off after it had been on about eight months. I ran my factory in the way I have stated. I tried the eight-hour basis and I lost money at eight hours. It has been stated here that nobody has appeared who lost money under the eight-hour system. I lost money at eight hours I make a little money at nine hours and I make more at ten. I get more work and get the full benefit of my machinery for ten hours. It makes a great difference whether a machine runs eight hours or ten hours a day. Under this arrangement I was getting along harmoniously with the union at Pittston.

But the city of Wilkesbarre had a union, and their walking delegate came to me in Pittston and said to me, "We want you to sign our rules." I said, "Let me see what your rules are." I examined the rules and I said to him, "I am running under an agreement with the union of Pittston, and these rules are entirely different from theirs. How, gentlemen, can I sign two sets of rules and live up to both of them?" The answer was, "You can not do it; you can not serve two masters." Then I said, "What shall I do in that case?" They said, "Take your choice and take the consequences." I took my choice and took the consequences. The consequences were a boycott, which has been on now for about three years and has never been declared off. I went to the courts and asked for an injunction. I obtained a preliminary injunction. I went on with it and was granted a permanent injunction, but that has not removed the boycott, because there are other unions than those I enjoined, and they are continuing it as far as they can.

This, as I understand it, is the class of men that are asking for this legislation. The bill is the entering wedge to help them get the universal eight-hour law—an eight-hour day for this entire country. I do not believe that you can fix any standard of time for a man to work in all branches of business. I do not object to an eight-hour law, and I do not object to any less time if the work can be done to the best interests of all concerned; but I do object to the freedom of the employer and employee being taken away, so that they are not allowed to make their own contracts between themselves as they choose. I do not believe it is right. I think that the general opinion, outside of possibly some politicians who must be exceedingly cautious about offending the unions, is that such legislation is wrong. The politicians may think that if they do not harmonize with the labor unions they do not get their votes. I believe that is one of the greatest mistakes they make. I do not believe the union can deliver the votes. In our district two men were running for Congress, and one of them was the attorney for the union. After he was nominated he was indorsed by the union and expected the union vote. So far as I can learn his opponent got the largest share of the union vote, and he got the smallest share and he was defeated. He was very sore and he told me he was done with the union; that the union had promised him to deliver their vote and he did not get it. It is the free

ballot, gentlemen, which gives to the union that privilege. They can go to the polls and vote as they like.

There are other things connected with this union matter which show what the effect of it is. A few months ago I met and was talking with a man who is a first-class workman and a friend of mine, I believe, and he said to me: "Mr. Patterson, I hope you will excuse me and not think I am not your friend or that I am not willing to meet you and talk with you on any subject, but I dare not recognize you on the street. I am afraid of the union. I am a member of the union because I dare not be otherwise. I could not get money enough to feed my family if I were not."

I was talking some time ago with a man at the corner of a street, and all of a sudden he started. It was a surprise to me. He said to me: "Do you see that man?" I said, "Yes, I see that man; but what of it?" He said, "I will be reported to the union for talking with you on the street, and perhaps I will be fined." Was that man free? He is a good workman and belongs to the union. He does not want to belong to it. I have taken the pains to talk with union men in different parts of the country and in different cities.

I will mention one instance only, in the city of Chicago. I talked with two men there who were friends of mine and who were first-class workmen. They told me that they belonged to the union, and they declined to talk with me in the presence of other union men. But they met me in the evening and gave me all the information I asked them for. I had certainly gained their confidence, or they would not have done that. Those men said that when they worked for a great deal less wages they bought their homes in Chicago and paid for them; they clothed their children and sent them to school and fed them and got along well. They said, "To-day we have harder work to feed our children and clothe them at these wages than we did when we got smaller wages." I said, "How can that possibly be? I employed men at the time of the civil war and you are getting more wages than I paid those men at that time, when gold was worth from 180 to 200 and everything was beyond its natural and proper value." "Well," they said, "we do not get time enough now and we do not get as much money as we did when we worked for less wages." I asked, "Why are you in the union? Why do you not get out of it?" They said, "Because we dare not get out. We are in because we are obliged to be to get any work." I asked, "How many of your union, in your judgment, belong to it because they feel that they must belong to it and because they can not get work unless they do belong to it?" They answered, "Over 60 per cent, in our judgment." I asked, "Why don't you get out, if that is the condition of affairs?" They said, "We dare not get out; we have no leaders to lead us, if anyone were to start a thing of that kind. We can not go out of the union or we would get no work."

If that is the class of men who are asking for this legislation, is it right for them to have it? If this legislation would help to establish such a condition of affairs, is it vicious? I think that such legislation would prove to be vicious. I believe that anything which takes away from a citizen of this country the right to make his own contracts, the right for the employer and the workman together to agree on the number of hours at a certain price for those hours, would be unfair.

I guarantee there is not a man within the sound of my voice who has not worked more than eight hours a day to get at the point where he is. He has either worked at his studies or some occupation to get money to pursue those studies. If you put a man on the eight-hour system you will find that you have not as many men coming to the front as you have to-day. It holds back the men who want to get to the front, and those men have a right to work as many hours a day as they please and for whom they please. Why has this country forged ahead until it is the greatest country on the face of the earth in the short space of one hundred years? It is simply because we have been free and because every man has the right to forge to the front. He has had his chance to get his education if he chose to do so. He has had a chance to learn his trade. He has had a chance to prepare himself for his business.

Years ago when I worked for 56¼ cents a day I worked twelve hours a day. I was learning my business and laying up a little money to start in business with. My father was a wealthy man, but he lost his money and I had to start to make mine if I had any. If I had been held down to eight hours a day I would never have gotten ahead as well as I have. But I did not stop at eight hours a day or at twelve hours a day. I was employed at one time by a man for ninety days, and I forged ahead to do all I could for him. I not only worked ten and twelve hours a day, but sometimes as high as eighteen hours when it was necessary. What was the result and what will be the result to any man that is in the employ of a fair man if he works for his employer in that way? My employer said to me, "Mr. Patterson, I want you for my partner." I said, "I can not compete with you as a partner; I can not go with you as a partner because I have not got money enough." He said: "That makes no difference. I have got money and you can have all you want of it, and I will take your note without security." If I had been working eight hours a day and had dropped my work the minute the eight hours were up would I have been the partner of that man? Would I have been talking to-day to you gentlemen? No.

You may say that this bill does not apply to many of the points about which I am speaking, but I say that it does apply directly or indirectly. It is leading up to the making of an arbitrary eight-hour day. I do not believe we can make an arbitrary day or fix an arbitrary number of hours for a day's work. One line of business will require more time than another. Whenever the time comes, by evolution, for the adoption of the eight-hour standard in my business, and it is fair, I am ready to adopt it or any other number of hours, but I believe it has got to come in that way. I do not believe there should be any legislation fixing the number of hours of labor.

I know there are a number of gentlemen who would like to address you. I have a good deal more I would like to say, but my time is limited.

The ACTING CHAIRMAN. If you have anything further that you really wish to say, I do not believe it is the disposition to shut you off. When we close to-day we will probably take a recess until to-morrow morning.

Mr. PATTERSON. I will see if I can not arrange to stay over.

The ACTING CHAIRMAN. We would want you to conclude now.

Mr. GOMPERS. Before Mr. Patterson leaves the question he is discussing I would suggest that inasmuch as Mr. Patterson has referred to a certain man who either directly or indirectly had accepted money or other consideration for the settlement of strikes and sold out his men that it might be in the interest of fair play for us to know the name of this man who has either been dishonest himself or has stated that others have been dishonest. I do not know whether there could be a case brought before the courts in either the State or Federal courts, but I am inclined to believe there could not be. In view of the statement Mr. Patterson has made, that this is the class of men who are asking for this legislation——

Mr. PATTERSON. I said, "If this is the class of men asking for this legislation."

Mr. GOMPERS. That was the second time you made the statement. When Mr. Patterson made the statement the first time he said, "This is the class of men."

Mr. PATTERSON. I meant to say, "If this is the class of men." If I said "This is the class of men," I desire to correct it now.

Mr. GOMPERS. Does Mr. Patterson object to stating the man's name?

Mr. PATTERSON. He did not ask me for anything. He only told me how it was done.

Mr. GOMPERS. Has Mr. Patterson any objection to giving this man's name?

Mr. PATTERSON. I have an objection to giving it. I could not give the name now and I do not know whether I could obtain it. I do not remember names well, and if I do not write them down they are lost to me. I do not think it would be fair under the circumstances under which I was talking with this man for me to give his name.

I want to call your attention to one more point, and then I will not occupy any more of your time. A man largely interested in the union said to me, or in my hearing, at one time: "Take away the boycott and the right to picket and our cause is lost." I can not agree with that man. I believe that the workingmen have a cause for their union; but I do not believe they have any right to boycott or picket, to go outside of the law. I do not believe they should ask for legislation that would give that right. We all know that, in many cases, they have gone outside of the law, and that it is being done every day. They are boycotting and picketing. I have never yet known of a union man or of a union paper making any movement to stop that kind of work; and they ought to stop it.

I do not think there would be any objection to the unions by any citizen or any employer if they kept within the law. Why is it that these men persist in going outside of the law? It looks to me as if they were asking for legislation, not only in this bill but in the anti-injunction bill, which will establish an eight-hour day and enable them to raise prices of many commodities so high the country can not stand it. As the gentleman from the South who just addressed you has said, it will not do in many cases. There may be cases where it will do, but I do not believe it will do for the general business of the country. I believe that when you interfere by legislation with the free working of the business of the country you seriously interfere with the interests and prosperity of the country. I think that if this bill is enacted you will affect our exports. I think it will affect many

manufacturing establishments so that they will have to give up Government work. I do not see how they can run two sets of men. I do not see how they can work an eight-hour day for the Government and a nine or ten hour day in other work.

But the union men do not seem to look at it from the standpoint that a man must compete with his competitors. I said to one of their delegates, when he was talking to me about running my factory eight hours a day: "Do you believe that I can compete with men who are running their factories ten hours a day and in some cases eleven hours a day and hiring men for less money than I hire them for?" He said "No; I do not." I asked "Do you believe it is right to ask me to do that?" He said "No; I do not." Then I said "Why do you come to me and ask me to run my factory eight hours a day when you say you do not believe it is right and do not believe I can do it?" He answered "Your neighbors are doing it. The union says that you must do it and that is the end of it. You have got to do it and if you do not we will make you trouble. You had better do it and it is for your interest to do it."

Gentlemen, it is my interest to make such a bargain as I can with my men, and if I am a fair employer I will pay a man all he is worth. I do not believe in the claim that is so often made that the employers are crowding their men down. I believe that there may be instances of it; but it is to the interest of the employer to pay his men as good wages as he can afford to pay them. If he does not pay them what they are worth a competitor is going to take them away from him. If he does not pay them what they are worth and they are not satisfied in his employ they are not as good men for him as they would be if they were paid good wages. In my business, if I can afford good wages I pay them. It is a very rare thing that I have any complaint in that respect. I believe in leaving that matter where it is. I do not believe it is to the interest of the Government to interfere with it. I I believe it would increase the cost to the Government. I do not believe it would be in the interest of the people at large. I ask you, gentlemen, not to report favorably on this bill.

I thank you for your courtesy and attention.

Mr. GOMPERS. May I ask Mr. Patterson with which union he has an agreement at Pittston?

Mr. PATTERSON. With the carpenters' union.

Mr. GOMPERS. Was it the walking delegate from that union with which you had the conversation to which you referred?

Mr. PATTERSON. I have had different conversations with different ones, and I would not like to state anything which would show you who that delegate was. As I said before, I would not give his name. I have no right, in honor, to give his name, under the conditions in which the conversation took place.

Mr. GOMPERS. In what year was that?

Mr. PATTERSON. I might make a mistake in giving the year, but I think it was somewhere about four years ago. When I come to give dates from memory I am likely to be mistaken and be wrong on the record.

Mr. GRIMES. Mr. Chairman, I would like to ask Mr. Patterson a question.

The ACTING CHAIRMAN. You may ask Mr. Patterson a question.

Mr. GRIMES. Mr. Patterson, you reside in Wilkesbarre?

Mr. PATTERSON. Yes, sir.

Mr. GRIMES. And your plant is located in Pittston?

Mr. PATTERSON. My factory is in Pittston, but I am interested in several lines of business in Wilkesbarre and also in eastern Pennsylvania. I have a lumber establishment in Wilkesbarre.

Mr. GRIMES. In Pittston your plant is a planing mill, where you manufacture sash, doors, blinds, etc.?

Mr. PATTERSON. Yes; I am manufacturing interior finishing.

Mr. GRIMES. In your statement here you indicated that the cessation of trouble at your plant was caused by a compromise or something like a compromise.

Mr. PATTERSON. Something like a compromise.

Mr. GRIMES. And that your part of the compromise was that your men were to have an increase of wages amounting to from 16 to 20 cents. Was that per hour or per day?

Mr. PATTERSON. That was per day. It added about that much to the wages. It was merely nominal. It was rather a surprise to me to get a compromise of anything; but I think it had gone along so long that the union thought they were wrong in the way they were conducting themselves. I believe the majority of the union men all over the country would prefer not to be in the union. I have talked with men in different cities, as I before stated, and whenever I have talked with them I have had a good many of them tell me that is the case. Of course I only have what they say.

Mr. SCHULTEIS. What percentage of Government work do you do in your line of business?

Mr. PATTERSON. Not very much Government work.

Mr. SCHULTEIS. Do you know what percentage you do?

Mr. PATTERSON. I sometimes furnish materials to contractors who are doing Government work, but not to a large amount.

Mr. SCHULTEIS. You do not do any work directly for the Government?

Mr. PATTERSON. I have had no contract directly from the Government.

Mr. SCHULTEIS. What position do you hold with the Parry association? Are you an officer or do you merely come here representing one of their associations?

Mr. PATTERSON. I am not representing them at all.

Mr. SCHULTEIS. Whom do you represent?

Mr. PATTERSON. I represent the Employers' Association of Wilkesbarre, Pa.

Mr. SCHULTEIS. Who is the president of that association?

Mr. PATTERSON. Mr. W. C. Shepherd.

Mr. SCHULTEIS. Are you an officer in that association?

Mr. PATTERSON. No, sir; I am not.

Mr. SCHULTEIS. Did they ask you to come here?

Mr. PATTERSON. The president of that association asked me to come here.

Mr. SCHULTEIS. Does any who belongs to that association do Government work?

Mr. PATTERSON. That is more than I can tell you.

Mr. DUNCAN. Before Mr. Patterson sits down I would like to ask him if he seriously wants this committee to believe the statement that

the majority of the members of the union do not believe in unions and do not voluntarily hold membership therein?

Mr. PATTERSON. I seriously want these gentlemen to understand that I believe that the majority of them would rather be out of the union than in it, so far as I have been able to learn by going about the country and talking with members of the union whose confidence I obtained and who talked freely to me. If that question has not been raised before it is high time it was raised. I only wish there could be a private vote taken and that these members have an opportunity to vote freely as they feel about this matter. I do not know how it is, but I understand that they do not take a private vote when they vote in these matters in the union. I may be mistaken about that.

Mr. DUNCAN. The gentleman is mistaken. All the organizations in the country are governed by a referendum vote.

STATEMENT OF WILLIAM M'CARROLL, PRESIDENT OF THE MANUFACTURERS' ASSOCIATION OF NEW YORK, BROOKLYN, N. Y.

Mr. MCCARROLL. Mr. Chairman and Senators, I am president of the Manufacturers' Association of New York, and I appear in behalf of that association.

It would appear that we are all in agreement as to the object of this bill. I mean that our friends of the labor unions, represented by Mr. Duncan and those who, like myself, have spoken or argued in opposition to the bill are in agreement that the object of the bill is to be, finally, the establishment of an eight-hour work day for the people of the United States. As I understood Mr. Duncan he has stated that to be the object of it.

Mr. DUNCAN. Absolutely no. My statement had no bearing upon it. My statement was that we were dealing with the Government as an employer and we desire to work for the Government upon an eight-hour basis. It has nothing to do with the private employers in any way, shape, or form, so far as the bill is concerned.

Mr. MCCARROLL. I think the stenographer's report of the statement of the gentleman will bear out what I say, and it will speak for itself. I think there is no question but that is the object of it, and that is what is intended to be carried into effect by it. I think the speech of Mr. Duncan was, as Mr. Hayden has already said, one of the best arguments that could be made against the enactment of this bill. It is conceded that the stonecutters of the United States are already on an eight-hour basis, and that it has been brought about by the natural evolution of business in its natural progress. That is the proper, desirable, and legitimate way in which the hours of labor should be regulated. We must not lose sight of the fundamental fact that the hours of labor, like the values of material, are to be fixed only by the law of supply and demand.

When there is a demand for a large amount of product labor must be employed to produce that product in order to satisfy the demand. When the demand is for a less amount of product there must be a less demand for labor, and consequently when the demand is less the labor is cut down and the factories are worked on quarter time or half time or three-quarters time. When the demand increases the factories are again worked, and the laborers are employed to the full extent of their ability and willingness to work. That is the fundamental and only

reliable and proper principle upon which the hours of labor must, in the long run, be regulated; and if the Government should attempt, by legislation, to regulate the hours of labor for the people it will find itself, in the long run, overridden by the almighty law of supply and demand. Consequently, I say that the very fact which has been conceded by Mr. Duncan that this law is to regulate the hours of labor in every trade, and will regulate the hours of labor in all trades, is the best argument that could be made against the necessity for such legislation.

He quoted from the address of President McKinley as to the tendency of the world. That statement only goes to further fortify what I have already said, that the tendency of the world and the tendency of trade in the progress of the world and in the progress of trade is toward shorter hours for labor and that shorter hours are desirable. I am in entire accord with him there, and I think most of the manufacturers who have appeared before you are in accord on that subject. We are not antagonizing the desirability of shorter hours, but we are antagonizing the invasion of private rights by law saying that no man has the right to work longer than eight hours a day.

I come now to the consideration of the bill itself. If we do not call it class legislation we may certainly call it indirect legislation, because it seeks to establish an eight-hour day by example and by force of law, and it only stops there because the Government of the United States can not go any further. If it could go any further constitutionally this law would be urged to its utmost limit.

I believe that this legislation is impracticable. Discussion has shown how many natural obstacles intervene and how one exception after another arises—but that branch of the subject has been so well treated by Mr. Hayden that I need hardly take your time to talk about it. If we eliminate the exceptions there is really not a great deal left of the bill except as it may apply to immediate Government work; and so far forth the bill is really a promise to the air and a falsity to the expectation. It is confusing. It would lead to nothing but confusion in its interpretation. Who is going to determine where the exceptions that are now in the bill begin and end? Who is going to say what is meant by "transmission of intelligence?" Who is going to limit and define such articles as may be "usually bought in the open market?"

I am in the leather business, and specifications are given out for the manufacture of shoes for the United States Army. They call for a particular kind of shoe made of a particular weight of leather. The contractor who takes the contract from the Government has got to work only eight hours a day in manufacturing those shoes and the subcontractor who supplies the leather to him has also got to be watched to see that he does not work more than eight hours a day, and a penalty is placed on the contractor and subcontractor for a violation of that provision of the law. The contractor is to be mulcted because the subcontractor works his men more than eight hours a day. Who is to say where the line is going to be drawn as to where these exceptions begin and where they end? As a matter of fact, no manufacturer would be safe in undertaking any work for the Government without having the courts interpret just exactly what the contract meant before it was executed.

The proposed legislation is exceedingly objectionable because it is almost impossible for it to be put in operation in a factory unless that factory is working exclusively on Government work. It would

throw out any organized business and throw it into confusion by its operation. I will not take up your time by going into the details as to why that is so, because you have heard it time and time again during these hearings.

I believe it will be unjust to the Government. The effect of it absolutely would be that the Government would have to pay more for its supplies than the private consumer. In a great many of the States where the eight-hour day is applied the effect of it is that the supplies furnished and work done for the State cost more than for the private individual. The Government would be shut out from the advantage of general competition, unless only those who are running their works on the eight-hour basis would compete, and then there would be injustice against the man who was running his factory on the ten-hour basis. He would be prohibited from competing at all, and injustice would be done both to the Government and to that manufacturer. The bill is inequitable, because it puts into the hands of the inspector the power to determine whether the law has been complied with or not in the minutest detail. That certainly will lead to complications. For myself, I do not see how business could be done under it.

The appeal which the law provides for is an appeal from the inspectors to the Commissioners, and from the Commissioners to the Court of Claims. I am not a lawyer, but it does seem to me that is a very inadequate remedy. For myself, I certainly would have nothing to do with the Government under such a bill. A further objection to it, the socialistic tendency of the bill, has already been called to your attention. If you commence upon legislation of this character, where are you going to end? If we are to have a law provided for an eight-hour day, why not for a seven-hour day or a six-hour day or a four-hour day? If we are going to have the workday regulated by the Government, then why should not the Government regulate the prices of material, the prices at which goods shall be sold? It is only a step from one to the other. I do not want it to be understood that I am opposed to labor unions, because I am not. I heartily believe in them when they are properly lead, and I believe that if some of the gentlemen who are here to-day actually had the power to carry out what they themselves believe they would be better lead as they are. I will explain that if necessary. I believe that in the progress of the times the labor unions will come to a point where they will be exceedingly useful. They have been useful in the past and will be more useful in the future to those who belong to them, but in order to reach that end they will have to eliminate a great many of their present methods, and they will have to act within the law.

Between the labor unions upon the one hand and such legislation as is proposed here upon the other we are coming to a point where work is to be regarded as a misfortune, as something to be avoided, instead of encouraging the old sentiment which formerly existed in the American workman, to do his best. Mr. Patterson and I believe other men in this room are examples of such workmen. It would seem that the time has now come when men regard it as a misfortune almost that they have to work at all. It is that which breeds discontent and makes the workingman look to the Government as the sort of paternal relation. I say that this legislation is socialistic in its tendency, and I trust in the good judgment of this committee not to report it favorably.

Mr. DUNCAN. I would like to ask the gentleman whether, under the

present system by which the Government advertises for supplies to be furnished to it, he has any difficulty in supplying material to the Government.

Mr. McCARROLL. I have been a number of times requested to apply for Government work, but I have always declined to do it. We do not do anything at all for the Government, and certainly if this bill should become a law we never would.

Mr. DUNCAN. The gentleman does not reply to my question which is whether he experiences any difficulty in furnishing supplies to the Government under the present system. He says that he furnishes the Government nothing and if this law was passed he would not furnish them anything. I would like to know where his interest in this matter comes in?

Mr. McCARROLL. My interest is simply that of a business man of the United States, representing men who have interests with the Government and who do Government work. I do not do it. It so happens that, at the present time, I do not manufacture a line of goods which enters into Government work; and I should not think of undertaking it if such a law is enacted. I come here because I represent people who are opposed to legislation of this sort. The people I represent are numbered by the thousands, and they are citizens of this country—workmen and employers both. This is not a question which merely concerns the workingman of this country. It is of just as much interest to the manufacturer, and I tell you that the question has agitated this country from one end to the other.

Mr. DUNCAN. The point I am endeavoring to make is that the line which marks the beginning and the end of the exceptions to which the gentleman has referred is already fully laid out and covered under the present system by which supplies are furnished to the Government. Under that system there has been no question made for thirty years. What we propose under this bill is that contractors with the Government shall supply the Government with supplies in exactly the same manner and under the same limitations that supplies are now furnished to the Government Departments; and that system has not disorganized society in any part of this country.

Mr. McCARROLL. I do not understand, Mr. Chairman, that supplies are furnished to the Government under the present system by any means. It is the intention of this law to reach every man who supplies the Government, directly or indirectly.

Mr. SCHULTEIS. Is not that the existing law?

Mr. McCARROLL. Not as I understand it.

Mr. SCHULTEIS. You had better read the law.

Mr. McCARROLL. Perhaps I had.

Mr. SCHULTEIS. I know positively that it does cover that particular point.

Mr. McCARROLL. Then this law amounts to nothing.

The ACTING CHAIRMAN. There is no objection to a gentleman asking questions for the purpose of bringing out information; but discussion can not take place between parties when one gentleman is addressing the committee.

Mr. DUNCAN. I want to ask the gentleman a question. Perhaps I have not been able to make my meaning clear in regard to this matter. Regulations do exist at the present time for furnishing supplies to the Government, and those regulations are well defined.

Mr. McCARROLL. I would like to ask Mr. Duncan a question. Who is going to determine what are "supplies?"

Mr. DUNCAN. If the gentleman is asking me that question, I will say that has already been done. The practice of the Government of advertising for supplies through the newspapers has been carried on for the last thirty years. Here is a copy of the Government Advertiser, which contains, from end to end, advertisements for what are called supplies for the Government departments to be used in departments that are operated directly under the eight-hour system. If the gentleman will examine it he will find in it the names of the people who are here protesting against this bill; for instance, the Bethlehem Steel Company.

The question I desire to ask the gentleman is, what he means by the distinction he draws between supplies furnished to the Government under the existing law and supplies furnished to the Government under the proposed eight-hour bill?

Mr. McCARROLL. I will simply answer that by saying that the proposed law applies not only to the contractor and subcontractor, but reaches out to the man who makes the material, while the present system does not.

Mr. DUNCAN. Our proposed law does the very same thing as the existing law.

Mr. McCARROLL. And a little more.

Mr. SCHULTEIS. Does not the existing law of August 1, 1902, reach contractors and subcontractors?

Mr. McCARROLL. Not on an eight-hour basis, as I understand it.

Mr. CAIN. May I ask the gentleman how many manufacturers his organization represents which furnish the Government with supplies?

Mr. McCARROLL. It would be impossible for me to say, but there are a great many of them.

Mr. CAIN. Could you give it approximately?

Mr. McCARROLL. There are about 600 members.

Mr. CAIN. Could you give us the names of the firms?

Mr. McCARROLL. They are published in the handbook of our association, and I should be glad to furnish you with a copy.

The ACTING CHAIRMAN. A letter has been received from Mr. Keefe, asking that a communication previously sent by him to the committee may be printed among the letters of those in favor of the bill instead of among those in opposition to it. His letter is printed on page 409 of the printed hearings with those opposed to the bill. His present communication to the committee will be printed indicating that his letter should be among those in favor of the proposed legislation; also his statement heretofore filed.

CLEVELAND, OHIO, *March 31, 1904.*

Hon. Mr. McCOMAS,
Chairman, Washington, D. C.

DEAR SIR: I have been informed that your committee have placed my letter on the eight-hour bill in opposition to same. This is not true. I am not only in sympathy, but an ardent advocate of the shorter work day, which my letter shows; and I desire to be so recorded.

Respectfully, yours,

DANL. J. KEEFE.

STATEMENT OF DANIEL J. KEEFE, DETROIT, MICH.

I am not a believer in the regulation of the hours of labor by law. Under complete organization of the forces of capital and labor, a condition which we are rapidly approaching, the hours of labor can be adjusted on a basis far more satisfactory than by law.

The trades who have for the past twenty years enjoyed the eight-hour day are but another proof of the power and potency of organized labor; when intelligently directed, simply another evidence of what complete organization can accomplish.

Legislation is but the follower of public sentiment. Public opinion to-day demands a reduction of the hours of labor, not as an expedient, but as a virtual and necessary outcome of our present industrial development. The only practical result to be attained by organized labor in its advocacy of so-called remedial legislation is from an educational point of view. It simply gives us an opportunity of meeting in what might be termed "open court" the opponents of the eight-hour day.

Also offering us an opportunity of an analysis of the motives and objections of the opposition, as well as the animus of their hostility, refuting any fallacies or converting them to the justice of our demands, if possible—in a word, an agitation of the question, in order that a greater public interest may be awakened and a more general and intelligent discussion of the philosophy of the eight-hour movement augmented. Few, indeed, are the labor leaders who incline toward paternalism in our Government. We fully appreciate the great wisdom and sound judgment of the founders of the Republic and cherish the Declaration of Independence and Constitution they gave us, free from any taint of paternalism. The strength of socialism, says Thorold Rogers, is the injustice of government, and is weakened by every act of equity and becomes an extinct, or at least a dormant, force when all rights are respected.

I may be permitted here to add without digression that socialism in the United States has received a wonderful impetus from the injunctions of Federal judges. Thorold Rogers again reenforces my statement by saying "there is no practice more dangerous for the most powerful stimulant to socialism than the conviction that the forces of government are perverted to the interests of a particular class." The growing conviction among the workers that when rightly understood they have their fortunes in their own hands; the intelligent direction of organized labor, coupled with prudent counsels, profiting by mistakes, failures, and the experiences of the past, will incline them to the formation of economic ties of self-interest that will bind the employer and employee alike in one great harmonious mutual cooperating combination.

Where each shall enjoy a just and equitable proportion of the profits of said combination the introduction of the eight-hour day will work no lasting hardship to any industry. All progressive thinkers long since regard the eight-hour day as being worth more to the employer than a ten-hour day, and is cheaper at the same money. I am forced to recognize that much of the hostility of some who oppose a universal reduction of the hours of labor arises from an unfounded and petulant fear that labor will insist upon a further reduction should

the eight-hour day be granted. This is the basis of reasoning of the most malignant and vituperative foe of organized labor in the United States to-day as expressed in a recent newspaper interview.

By the same method of reasoning he would have the public believe that labor will ultimately cease to work at all, with the exclusive loss to the employer, and, by some occult power not explained, labor will appropriate everything, and logically demonstrate to his own satisfaction that labor is to receive extra compensation as the workday diminishes entirely, and pretends to believe with the darky that we will have Sunday every day by and by. This is an insult to the intelligence of the American public and a libel on the educational system of our country. An advocate of the destruction of all public schools is as rational and as consistent. But thank God that the Parrys are not considered seriously by the liberal and progressive employers, who at all times are willing to meet labor halfway in the adjustment of any difference. Nor is he (Parry) feared or noticed by organized labor. He is too small and puny to do harm.

Space does not permit a lengthy discussion of the motives of those opposing the eight-hour day, but would respectfully call the attention of your honorable committee to one eloquent fact, viz, that none of the great industrial interests whose employees are at present working the eight-hour day have appeared before you as opposing the passage of Senate bill 489. Many of those most anxious for its defeat are numbered among the employers who pay the lowest wages and who seemingly yearn for the days of chattel slavery. Those who operate factories with the labor of children of tender years are found in the ranks of the persistent and uncompromising enemies of the eight-hour day. Another stereotyped objection to short day is the restriction on the output.

Speaking from my own personal experience as a longshoreman, gained while working on the docks for many years, will state boldly, and challenge the advocate of the so-called restricted output to disprove my statement, viz, two gangs of men unloading lumber. coal, etc., from a vessel, both alike as to physical qualifications, the conditions being entirely the same, one gang working eight hours and the other ten for a season of eight months or a year, I claim the men working eight hours will have accomplished as much as those working ten hours and to have done better work. In occupations where strength and endurance is a test, it is the man of maximum energy and endurance that sets the pace that the others must follow, or make way for those who can hold up their end, and the ethics of the worker will allow no fellow to outdo him—this you may call what you will.

In athletics it is the fellow who is physically a trifle better than the others who makes the record, and the task of the laborer is measured and set by the speediest and strongest rather than by the other fellow. Recognizing as an indisputable fact that the three first hours of the morning and the three hours after noon show the greatest and best results, it stands to reason that after eight hours' labor the accumulated energy has been exhausted and the worker is drawing on his reserve or vital force for the accomplishment of the balance of his ten-hour day; whereas the stimulus of a shorter day allows him to recuperate and put forth his best efforts, without the strain, the fatigue, or exhaustion required for ten hours.

Man is the only animal that mankind will expect or permit to set a pace of endurance for one day and then compel him to keep that pace for a quarter of a century, and, in most instances, casting him aside at the age of 35 or 40 years if he fails to perform the work as he did at 25. We may ask a horse to go 50 miles in one day, but we stop our calculations, if with the same horse we must go 150 miles. And we fancy there are men who would term us brutes if we drove a horse 40 miles each day for a week. Society fails to recognize the poor human wrecks who failed to keep the pace, and whose untimely deaths are often attributed to many other rather than the real cause.

Restriction on the output is a point not well taken, when I inform your honorable committee that a gang of longshoremen on the different docks on Lake Superior will load from 6,000 to 8,000 tons of iron ore into a vessel in two and one-half hours. The intense strain on the human system to operate the machinery of which the worker is an integral part, necessitates a shorter day. The same degree of proficiency being demanded and expected in all the branches of our work as those of the iron-ore handlers. The phenomenal development and adoption of steam and electricity in the industrial world to-day, especially in all activities belonging to production and commerce, the positive influences of this great development require that our members possess a technical skill to fit them for the positions they fill.

Every day our workers are making new records, with the pace of yesterday but a milestone left behind—the modern inventive genius each hour perfecting new inventions, and the worker called upon to adapt himself to new methods, to adjust his skill and energy to meet new requirements. Another objection is that with the introduction of the eight-hour day we shall be unable to meet foreign competition. But all well-informed Americans fully understand that the advanced and progressive foreign manufacturers are to-day making an exhaustive study of American methods and American machinery, and those who are honest enough to speak the truth relative to the productive capacity of the American as against the foreign workers will say that America is twenty-five years in advance of Europe with her hand workers, and are in no sense a menace to American prosperity.

The whole question of the eight-hour day can be amicably adjusted by its universal adoption in the United States. That will brush aside a chimeras, the theoretical and technical phrases and platitudes, and the so-called restricted output, nor will the hostility or abstract allusions of the reasoning of the unprogressive enemies of organized labor retard its introduction.

Respectfully submitted.

DANL. J. KEEFE,
President I. L. M. and T. A.

DETROIT, MICH., *March 10, 1904.*

And thereupon the committee adjourned until Wednesday, April 6 at 10.30 o'clock a. m.

WASHINGTON, D. C., *April 6, 1904.*

The committee met at 10.30 o'clock a. m.

Present: Senators Dolliver, Clapp (acting chairman), Burnham, and Daniel.

ARGUMENT OF MR. HERMAN J. SCHULTEIS, CHAIRMAN NATIONAL LEGISLATIVE COMMITTEE, KNIGHTS OF LABOR.

Mr. Chairman and gentlemen of the committee, organized labor has petitioned the Congress for years—ever since the first violations of the original eight-hour law of 1868—to perfect and pass an act which would compel obedience from those who have charge of public works. These petitions have been as numerous as the "leaves in Valambrosa," and each organization has made the request unanimous; never a discordant note, no workman or organization of workingmen have petitioned against the shorter workday. The volumes of testimony which have been taken on this subject will bear out this statement.

Our original arguments in favor of a shorter workday have never been refuted. The invention of machinery has caused an evolution in trades and crafts that is incontrovertible. The opposition to the bill which is now before you has turned its line of argument toward the legal side of the question and, therefore, I will address myself to their contention by quoting decisions in the leading cases:

The United States *v.* San Francisco Bridge Company case covers the whole question (88 Fed. Reporter, p. 891). De Haven, district judge, said:

> The information charges that the defendant was a contractor upon public works of the United States, to wit, the new post-office of the United States in the city and county of San Francisco; that as such contractor its duty was to employ, direct, and control laborers employed and working thereon; and that the defendant did on the 1st day of December, 1897, in violation of the act of Congress above referred to, require and permit said laborers to work more than eight hours in the calendar day last aforesaid, to wit, nine hours and forty minutes in such day upon said contract and public works, there being then and there no case of extraordinary emergency for the employment of such laborers for the length of time last aforesaid, or for any length of time in excess of eight hours in said calendar day.
>
> The motion in arrest of judgment is based upon two grounds: First, it is claimed that the information does not charge that the defendant intentionally required or permitted the laborers employed by it upon the public works referred to in the information to labor more than eight hours in each day; second, because it is not alleged in the information, nor was the fact proved at the trial, that the United States has exclusive jurisdiction over the land upon which the post-office referred to in the information is being constructed.

In commenting on the singular omission of the plaintiff to charge that the defendant intentionally required or permitted the laborers employed by it upon the public works referred to in the information to labor more than eight hours on the one day mentioned, viz, December 1, 1897, the learned judge said:

> The information would doubtless have been in better form and more valuable as a precedent if it had followed the language of the statute, and alleged in so many words that the defendant intentionally violated the provisions of the law by directing and permitting laborers employed by it to work more than the prescribed number of hours; but, in my opinion, the information is sufficient to support a judgment of conviction.

The learned judge followed the doctrine laid down in United States *v.* Noelke (1 Fed. Rep., p. 426) and stated:

After verdict, however, and in passing upon a motion in arrest of judgment, the allegations of an indictment or information should be liberally construed, and an informal or imperfect allegation of an essential fact will be deemed a sufficient averment of such fact.

The information in this case does not in express terms charge that the act of the defendant in requiring and permitting its laborers to work more than eight hours in each calendar day was intentional, but such charge is necessarily implied from the language used in the information.

As before stated, the intention which enters into the offense described in the act of Congress above referred to (Aug. 1, 1892; 2 Supp. Rev. Stat. [2d ed.] p. 62), is simply an intention to do the act which is prohibited by that statute, and such intention is, in my opinion, in effect charged by the information in this case. The language of the information is that the defendant did require and permit its laborers to work more than eight hours on the day stated.

To "require" is to order, direct, or command, and the charge that the defendant required its laborers to work more than eight hours on the day named in the information necessarily implies that in making such requirement there was an intention upon the part of the defendant that its order or direction should be obeyed. So, also, the word "permit," as used in the statute, means to allow or consent to; and the charge in the information that the defendant permitted its laborers to work more than the prescribed number of hours may properly be regarded as the legal equivalent of an allegation that such work was done with its knowledge and consent, and, if so, there was an intentional violation of the law by the defendant."

Section 8 of article 1 of the Constitution provides that Congress shall have power "to exercise exclusive legislation in all cases whatsoever over such district (not exceeding 10 miles square) as may by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States," and "to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

It is not alleged in the information, nor does the fact otherwise appear, that the land upon which the new San Francisco post-office is being constructed was purchased by the United States with the consent of the State. * * * The statute under consideration, however, by its express terms is applicable only to public works of the United States and the District of Columbia; so that the question presented here is not whether Congress possesses the power to legislate generally in regard to the number of hours laborers shall be permitted to work in any one day when engaged in the construction of some building or in some other employment over which the United States has no right to exercise any supervision or control, but rather this:

Has Congress the power to prescribe the terms and conditions under which labor shall be performed in the construction of public works of the United States, and without reference to the fact whether such public works are or are not upon land over which the National Government exercises exclusive political jurisdiction? I entertain no doubt of the authority of Congress in this respect. Public works are instrumentalities for the execution of the powers of government. In the construction of its public works the United States exercises a power which belongs to it as a sovereign nation, and as a necessary incident of its sovereignty has the right to legislate in regard to all matters relating to the construction of such works, including the number of hours which shall constitute a day's labor for those employed thereon.

Laws have been passed limiting the hours for the labor of letter carriers in any one day (25 Stat., 157), and for those employed in the navy-yards of the United States (12 Stat., 587), and for all laborers and mechanics employed "by or on behalf of the Government of the United States" (15 Stat., 77), and the power of Congress to pass such laws has never been seriously questioned. In my opinion Congress may also provide that laborers upon public works of the United States, whether employed directly by the Government or by a public contractor, shall not be required or permitted to work more than eight hours in one day, and may compel obedience to such a law by providing that its violation shall constitute an offense against the United States and be punished as such.

Nor is the power of Congress to thus legislate in the least impaired or affected by the fact that such public works may be erected upon land over which the State retains political jurisdiction, as the sovereignty of the State does not extend to matters connected or incident to the construction of public works of the United States; and Congress, in providing, as it has, for the punishment of any contractor upon such public works or any officer of the United States who should violate the provisions of the law under consideration, was not legislating upon a subject which in any manner trenches upon the reserved powers of the State.

The subject-matter of the law is one which concerns only the Government of the United States, and over which it has the right to exercise supreme and exclusive control, notwithstanding the fact that the State, for all purposes relating to the government of the State and the administration of its laws, retains political jurisdiction over the land upon which such public works may be erected. This conclusion necessarily results from a consideration of the fact that, under American constitutional law, the National Government and the States which compose it are clothed with separate powers of sovereignty in relation to the subjects within their respective constitutional spheres of action, and each may therefore exercise the powers pertaining to its own sovereignty without coming into conflict with the other.

This view is in harmony with what was said by Chief Justice Taney in delivering the opinion of the Supreme Court of the United States in Ableman *v.* Booth (21 How., 516):

> The powers of the General Government and of the State, although both exist and are exercised within the same territorial limits, are yet separate and distinct sovereignties, acting separately and independently of each other, within their respective spheres. The motion will be denied. (Dist. court, N. D. Cal., June 25, 1898.)

Before quoting other authorities, I desire at this point to suggest several amendments to the bill and have them considered as pending, having been requested to do so by District No. 66, Knights of Labor, who have given careful consideration to the eight-hour question for years. They have an engrossed copy of the act of August 1, 1892, hanging in their hall, corner Four-and-a-half street and Pennsylvania avenue, together with the pens and penholders used by the President of the United States, the Vice-President, and the Speaker of the House of Representatives, respectively, in signing the original bill, and it is the most revered relic in the lodge room.

A clause should be inserted to provide payment at the prevailing rate of wages for enlisted men in the Army whenever they are required or permitted to work at their trades or crafts on public works in com-

petition with outside labor. This is a new practice, a recent growth, and has in many places attained the proportions of a public evil. Petitions have been sent to Congress from various parts of the country. Congressman Livernash, of California, presented some of them recently, and complaints were made and discussed at the last annual convention of the American Federation of Labor, at Boston, Mass. I hardly think that the learned lawyers on the opposite side will claim that it is unconstitutional to pay the prevailing rate of wages in a community.

I make this facetious remark because of my experience before Gongressional committees since I first appeared in 1885 in behalf of labor organizations in advocacy of the "alien contract labor law," which law, by the way, is not now and never has been properly enforced. According to the Government reports on the immigration question only a fraction of 1 per cent of the alien immigrants are barred by the immigration officials, instead of from 26 to 28 per cent, as would be the case if the existing laws were enforced. There are over 8,000 contract laborers in this country now brought by one corporation (the Pennsylvania Railroad) and nearly 1,500 of them are at work to-day within the nation's capital, doing the rough work on the new Union Depot. Said corporation is liable to a fine of $1,000 for each alien brought under contract, express or implied, and yet the authorities have not entered suit for a single one of them. Comment is unnecessary. These men work on ten-hour shifts for $1.50 per diem.

Officials hostile to the principles embodied in the laws are put in high places of executive authority, and woe to the subordinate who does not sneeze when the chief takes snuff. Trivial or false charges are placed against him (I speak this from personal experience as an immigrant inspector and as a member of the board of special inquiry at Ellis Island, N. Y.), and he is dismissed forthwith, without a trial or a chance to face his accusers—without a hearing, no matter how earnestly he may plead for the same. A recent Executive order added to the civil-service law leaves it within the discretion of the chief as to whether a subordinate may defend himself or not. This discretionary power places every subordinate, female as well as male, completely at his mercy.

The civil-service law gives no security to employees who respect their oaths of office and perform their duties to the best of their ability. The laws are enforced only so far as the chief approves of them. This is true of all laws passed in the interest of organized labor. The eight-hour law is being violated to-day by nearly 600 men who are working on the new reservoir and the filtration plant, a public work in this city. The new post-office at the nation's capital was built on the nine-hour plan, although there was and is an eight-hour law on the statute books.

The Chinese-exclusion act is being violated every day, and it is a notorious fact that there are more Chinese in a single city than are entitled to be in the entire country under our treaty with China. It was this nonenforcement of existing law that prompted me to say before the Committee on Labor of the House on March 26, 1904 (see printed "Hearings on eight hours for laborers on Government work," p. 422):

The organization which has given me credentials to appear before you in advocacy of further "eight-hour" legislation has had its representatives before Congressional

committees since 1868. We supposed then that the act of June 25, 1868, would secure the eight-hour workday for us on all work done by or on behalf of the Government of the United States, as is required by that law in letter and spirit. But, unfortunately, there have been executive officers in charge at various times and places in the navy-yards, arsenals, on Government buildings, and other public works who were hostile to the principle embodied in the law, and on that account were so bold as to flagrantly violate not alone their oaths of office but the positive enactments of the Congress.

They set up "men of straw" cases, ingeniously worded, in order to get a narrow construction of the law from the courts and still narrower opinions from the Attorneys-General, giving to these mere opinions a weight greater than the decisions of the Supreme Court of the United States, greater than the plain intent of Congress, and overriding even the proclamations of the President of the United States, made by President Grant on May 19, 1869, and May 11, 1872, respectively. To meet this positive disregard of the law we have appeared from time to time to urge amendments and penalties which would compel the enforcement of the law by unfriendly executive officials.

We appeared before the O'Neil committee, the McGann, the Wade, the Buchanan, the Blair, the Kyle, the Phillips, the Gardner, and the McComas committees, all with the same object in view, to perfect the eight-hour law and stop the violations of it.

In this instance, as was the case in the last Congress, we seek to enlarge its scope so as to include the Territories, provide additional penalties and inspectors, and to make the law automatic by a provision in the contracts, rather than to compel the individual laborer to resort to the courts for his rights under the law. No new principle is involved, and all questions of personal and natural rights are avoided.

Relative to the nonenforcement of the eight-hour law Mr. Samuel Gompers, president of the American Federation of Labor, said, on February 11, 1904, during the above "Hearings" (see pp. 43 and 44):

I desire to say I have had considerable correspondence with the officers of the Federal Government, with the heads of Departments, in regard to the enforcement of the present eight-hour law. I find that it has not been enforced, and that there is a different rule and a different practice obtaining in various Departments under the same law. I had some correspondence with the Secretary of War who has just retired, and, in regard to the violations of the eight-hour law in West Virginia, in the building of one of the dams there, or several of the dams there, he quotes me an opinion of the Judge-Advocate-General in which he says that the Department is not required to enforce the law; that if there is anyone having complaint to make it is his privilege to go to a district attorney for the Federal Government and to make complaint.

The ACTING CHAIRMAN. This work is being done by contractors?

Mr. GOMPERS. Yes, sir; notwithstanding the fact that the present law makes it an offense, a misdemeanor, for any of the officers or representatives of the Federal Government to permit the violation of the eight-hour law.

Mr. HUGHES. It has been generally ignored since it was passed in 1868, has it not?

Mr. GOMPERS. When the eight-hour resolution was first adopted by Congress it was simply preparatory, and then the heads of Departments reduced the wages of the employees whose hours of labor had been reduced. President Grant issued a proclamation directing that there should be no reduction in wages by reason of the reduction in the hours of labor to eight. With the panic of 1873 there was again a laxity on the part of the officers of the Government in the enforcement of the law.

During the hearings before the Senate Committee on Education and Labor, having before them an "eight-hour" bill of the Fifty-sixth Congress, first session, page 449, Mr. James Duncan, second vice-president of the American Federation of Labor, and secretary-treasurer of the Granite Cutters' National Union, speaking of the violations of the eight-hour law, said:

We amended the bill in order to cover points that were brought up by different contractors after the contractors commenced to do more work for the Government than they had been doing during the early days of this law. We expected that that would be interpreted as interpreted by Senator Gallinger in a letter he wrote in connection with the Washington and Lewiston post-offices. I sat here patiently to-day and heard a lawyer representing one of these big corporations say that the spirit of the law had been carried out. Yet the Washington post-office stands there as a

monument, within a few yards of the White House, as evidence against him. Every stone on that building was laid on the nine-hour day basis, although the contract was given out under an eight-hour day, and the Department here has letters showing that it was contracted for upon the eight-hour basis.

In the District of Columbia, as far as the emergency clause is concerned, one man said what would the public think of a man unworthy of being trusted with a piece of work that could not be trusted to faithfully carry out the emergency clause? Here is the point. Here in the city of Washington, under the eyes of the President and Senators and Congressmen, this work was done in defiance of the law, the contractor merely using for an argument that he could not use more men, so as to have more shifts, but was compelled to work the men longer hours.

If the amendments and penalties which we seek to incorporate on the existing eight-hour law had been passed by the last Congress, the honorable Secretary of War, Mr. Elihu Root, and the Judge-Advocate-General, who are referred to by Mr. Gompers, would not be bothered by our complaints concerning the nonenforcement of the law, nor would the poor individual laborer be asked to exercise "his privilege(?) to go to a district attorney for the Federal Government (with his lawyer and witnesses) to make complaint."

The law would be automatic, it would enforce itself by its own provisions. Perfect this law and there will be an end to the thousands of petitions on this subject which have deluged the files of Congress and swelled the Congressional Record. It will increase respect for the law everywhere in the same proportion that nonenforcement decreases it. In an article on "The enforcement of the law," printed in The Forum, September, 1895, signed "Theodore Roosevelt," I find this forcible utterance:

> The worst possible lesson to teach any citizen is contempt for the law. Laws should not be left on the statute books, still less put on the statute books, unless they are meant to be enforced. No man should take a public office unless he is willing to obey his oath and to enforce the law. * * * I am far too good an American to believe that in the long run a majority of our people will declare in favor of the dishonest enforcement of law; though I readily admit the possibility that at some given election they may be hopelessly misled by demagogues, and may for the moment make a selfish and cowardly surrender of principle.

Again he says:

> On a naked issue of right and wrong, such as the performance or nonperformance of one's official duty, it is not possible to compromise.

These are good words, and I commend them to the officials who have charge of the enforcement of so-called "labor laws."

Representative Hughes, of New Jersey, who asked the question given in Mr. Gompers's statement, which I have just quoted, concerning the nonenforcement of the eight-hour law, himself accompanied me to the new reservoir and filtration plant and questioned the men at their work, ascertaining the fact that they are working on the ten-hour plan, two shifts per day—that is, twenty hours—the night shift working by electric light, when there should be three shifts of men working eight hours each, if an emergency really existed.

Mr. Hughes followed up his investigations and had a personal interview with the President and considerable correspondence with officials in charge of the Government bureau under whose direction this work is being done, and it all resulted in the stereotyped pretense that there was an emergency, because the work had to be completed by a certain time. It never occurs to these officials to have the thought that three shifts of men working eight hours each could finish the work earlier than two shifts working ten hours, and that they would not then do violence to their consciences by disobeying their oaths of office.

Even the opposing counsel taunt the Government with these violations, and seek to justify the violations of the manufacturing contractors and subcontractors because the Government sets them the example by declaring every violation of the law an emergency. I will quote from the argument of Mr. Robert C. Hayden, representing the Carnegie Steel Company and other interests. (Hearings before the House Committee on Labor, March 26, 1904, p. 451.) It will be noted that this particular instance was on "harbor work," and that the committee did not care to have particular instances cited, the violations being presumably so general.

Mr. Hayden said:

If I may just have a moment more, I would say that when Mr. Gompers opened the hearings in this committee a month ago, he stated—which is a very positive fact and well known in many circles—that the present eight-hour law, that of 1892, which we have been hearing about, is not generally enforced, or that there are many instances in which it is not. I took the trouble to make various inquiries after hearing him make that statement, and, among others, I know of a large construction company that is doing quite an extensive piece of public work for the Government which is working ten hours every day, and has been ever since the work started.

Mr. HUGHES. I know that, too.

Mr. ROBERT HAYDEN. I asked the engineer in charge how he managed that, and he said, "Why, the inspector declares an emergency." That is on harbor work. Now, if the law is flouted in that fashion, how can the Government, which fails to practice what it preaches, expect the manufacturers to submit to such a law. The Government can not set an example to persons——

Mr. GILBERT. Where is that contract to which you refer?

Mr. ROBERT HAYDEN. I should prefer not to give the company away, sir. That is confidential.

Mr. SCHULTEIS. I can cite two for the member of the committee, if he wants them.

In order to prevent violations on account of the emergency clause of the act of August 1, 1892, which act reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day; and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics, to require or permit any such laborer or mechanic to work more than eight hours in any calendar day except in case of extraordinary emergency.

SEC. 2. That any officer or agent of the Government of the United States or of the District of Columbia, or any contractor or subcontractor whose duty it shall be to employ, direct, or control any laborer or mechanic employed upon any of the public works of the United States or of the District of Columbia, who shall intentionally violate any provision of this act, shall be deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine not to exceed one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof.

SEC. 3. That the provisions of this act shall not be so construed as to in any manner apply to or affect contractors or subcontractors or to limit the hours of daily service of laborers or mechanics engaged upon the public works of the United States or of the District of Columbia for which contracts have been entered into prior to the passage of this act.

A good law, which if rigidly enforced would answer all purposes. The proposed bill is practically amendatory to it and on account of the number and character of the exemptions in the pending bill—nearly everything being exempted—these exemptions are said to be necessary in order to enable the law to stand the test of the courts. Whether it be true or not, they are in the pending bill and cover about

95 per cent of the work which is possible to be done for the Government by manufacturers—contractors or subcontractors. The counsel who appear here in opposition to the bill admit the truth of this statement. Judge McCammon, who represents the steel trust, and, I believe, the shipping trust, also states on page 5 of the hearing before the House Committee on Labor, February 4, 1904, as follows:

If the committee will carefully read the bill it will be noticed that nearly everything is excluded.

Therefore the organization of the Knights of Labor have again instructed me, at their meeting in this city on February 5, 1904, which was the occasion of the annual election of officers, to present the same amendment which was advocated by them in the first session of the Fifty-seventh Congress, and can be found in the hearings of that Congress, pages 232 and 233. We said on that occasion, referring to the then pending eight-hour proposition (H. R. 3076):

As the law is an accomplished fact, and has been since 1868, we see no necessity for producing further original arguments on this subject. But we do insist that, when penalties or sections in the nature of penalties are put in, there should be something that will hold water.

We believe that on page 3 of your bill, unless the following proviso is added, there will be no proper enforcement of the law. Our experience in the past has taught us that wherever there is a loophole in the law the Government officials will take advantage of that loophole and violate the law. Even Secretaries of the Navy have issued orders which violate the law and the spirit of the law in the past. I refer to the orders of 1878 and 1880 issued by Secretary Thompson, where it is said that the hours should be from 7 in the morning until 6 in the evening, when the law positively said that all work done by or on behalf of the Government should be eight hours. But the shoulder-strapped officials in the navy-yards and the arsenals throughout the country have worked the men ten and twelve hours a day. They have promised the men that they would be paid overtime, too, and have stated to them that a law which would give them back pay would pass, and for that reason men have worked long hours, and some of them have worked under protest in the various arsenals throughout the country.

Now, we see here, under the word "imminent," an opportunity to put in a proviso which, in my judgment and in the judgment of the organization which I represent, would prevent unnecessary violations. We know that unless some provision of this sort is inserted officers such as are mentioned here will see fit to waive the provisions and stipulations on many occasions when there is no necessity for it; and whenever there is a necessity, this will do no harm, for it merely requires time and half time for such excess over eight hours.

So I propose an insertion on page 3, line 7, after the word "imminent," as follows:

"*Provided*, That during such waiver time and half time shall be allowed to laborers and mechanics for work done in excess of eight hours per calendar day."

Now, as to the imminence of war, there is a question in the minds of a great many statesmen when war is imminent and when it is not, and when war exists and when it does not.

There were features in that bill salutary in their nature, and exemptions were minimized. It was far better than the pending bill with its plethora of exemptions and loopholes for violations which can only be cured by the proviso above suggested.

I can best illustrate how this would operate by quoting from the statement of Mr. Milford Spohn, chairman of the legislative committee of the Central Labor Union, District of Columbia, an organization affiliated with the American Federation of Labor, March 26, 1904 (Hearings before House Committee on Labor, pages 417 and 418);

Mr. SPOHN. I will state that the national law of my organization makes it obligatory upon every local organization allied with the national body to insert in every contract entered into with the employer that eight hours shall constitute a day's work, and that no overtime shall be permitted unless in case of an extraordinary emergency, and the organizations decide what that extraordinary emergency is.

Mr. GOMPERS. May I ask a question at this juncture?

The ACTING CHAIRMAN. Certainly.

Mr. GOMPERS. When the overtime is provided for in the agreements between your organization and the employers, is not extra payment required?

Mr. SPOHN. Yes, sir; 50 per cent more.

Mr. GOMPERS. And is not that intended to prevent, or in other words, to penalize, the overtime?

Mr. SPOHN. Undoubtedly; and besides that, I will inform the gentleman that so far as my organization is concerned—and there are 60,000 allied with our organization in the United States—we even provide for limiting the overtime work. In other words, if a contractor wants to work his men twelve hours in the twenty-four he has to get another set of men to do the four hours' work. The men who have worked eight hours must quit.

Mr. DAVENPORT. Has the gentleman ever examined the reports of the Industrial Commission?

Mr. SPOHN. Oh, yes; I was before the Commission.

Mr. DAVENPORT. Has he examined the conditions and provisions in the several agreements contained therein?

Mr. SPOHN. Oh, yes; I know something about the agreements.

Mr. DAVENPORT. Is it not a fact that all those agreements that are set forth there provide for overtime?

Mr. SPOHN. Yes; with time and half time, and some of them double time.

Mr. DAVENPORT. Certainly; there is no question about that. Now I ask this question: If the object of charging extra pay for overtime is to penalize and the position of your organization is that overtime is such a bad thing, why is it that they do not prohibit overtime? Why is it they come to the Government and ask them to do that which no organization except one, I believe, in this country had provided? Why is it, if you want this thing done for the sake of others, that you do not set the example of doing it in your own organization instead of expressly providing for overtime?

Mr. SPOHN. So far as my organization is concerned, we will only permit overtime in case of extraordinary emergencies, and the man who is called the shop steward, a member of the organization, is to be the judge of whether it is a case of an emergency or not. I think that is getting it down pretty fine, is it not? If it is an emergency case we require the employer to pay time and half time. I have seen contracts of other trades, and they are all similar, so far as that is concerned. Some of them even go so far as to demand double time for overtime, but all of them require time and a half for overtime.

Mr. GOMPERS. Since your oganization has secured the eight-hour day and penalized overtime, do you find a proportional increase or decrease on the part of the employer for overtime on the part of workmen?

Mr. SCHULTEIS. It has almost wiped out overtime.

Mr. SPOHN. There is no overtime at all?

Mr. SCHULTEIS. There is nobody who cares to pay time and half time for overtime.

Mr. SPOHN. No. The membership of my union in this city is 800, and I will venture the assertion, and I am in a position to know, that of the 800 during a period of one year there is not ten hours' overtime worked by the whole aggregate membership.

After a careful examination of the contracts published and compiled by the Industrial Commission, I find that the tendency is toward double time for Sundays and holidays and time and a half for all excess over eight hours. The nonenforcement of the eight-hour law is a public scandal and would not occur if time and half time, or better yet, if double time were required, as is the rule of the trades and crafts on private work. Therefore we again ask you, if you are going to report this bill, to strike out and insert so that the bill shall read as follows:

A BILL limiting the hours of daily service of laborers and mechanics employed upon work done for the United States, or for any Territory, or for the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every contract hereafter made to which the United States, any Territory, or the District of Columbia is a party, and every such contract made for or on behalf of the United States, or any Territory, or said District, which may require or involve the employment of laborers or mechanics shall contain a provision that no laborer or mechanic doing any part of the work contemplated by the contract in the employ of the contractor or any subcontractor contracting for any part of said work contemplated shall be required or permitted to work more than eight hours in

any one calendar day upon such work; and every such contract shall stipulate a penalty for each violation of such provision in such contract of five dollars for each laborer or mechanic for every calendar day in which he shall be required or permitted to labor more than eight hours upon such work; and any officer or person designated as inspector of the work to be performed under any such contract, or to aid in enforcing the fulfillment thereof, shall, upon observation or investigation, forthwith report to the proper officer of the United States, or of any Territory, or of the District of Columbia, all violations of the provisions in this act directed to be made in every such contract, and the day or days of such violation; and the amount of the penalties imposed according to the stipulation in any such contract shall be directed to be withheld by the officer or person whose duty it shall be to approve the payment of the moneys due under such contract, whether the violation of the provisions of such contract is by the contractor or any subcontractor. Any contractor or subcontractor aggrieved by the imposition of the penalty hereinbefore provided may appeal to the Court of Claims, which shall have jurisdiction to hear and decide the matter in like manner as in other cases before said court.

Nothing in this act shall apply to contracts for transportation by land or water, or for the transmission of intelligence, or for such materials or articles as may usually be bought in open market. The proper officer on behalf of the United States, any Territory, or the District of Columbia may waive the provisions and stipulations in this act during time of war, or when in the opinion of the inspector or other officer in charge any great emergency exists: *Provided*, That during such waiver fifty per centum additional compensation shall be paid to each laborer and mechanic for all work done in excess of eight hours per diem. No penalties shall be imposed for any violation of such provision in such contract due to any emergency caused by fire, famine, or flood, by danger to life or to property, or by other extraordinary event or condition. Nothing in this act shall be construed to repeal or modify chapter three hundred and fifty-two of the laws of the Fifty-second Congress, approved August first, eighteen hundred and ninety-two.

This would be all the legislation required for decades to come relative to limiting the hours of labor. It would be more important to workingmen than any law since that of June 25, 1868. It would be far more important than the acts of May, 18, 1872, May 24, 1888, August 1, 1892, June 12, 1895, and February 25, 1899. In my judgment the time and half-time amendment would result in the enforcement of the law at all times as thoroughly as was the case when General Grant was President, and when the Hon. William E. Chandler was Secretary of the Navy, and I may add that at no other time has this simple law been enforced, although no policy of law is more clearly defined on our statute books. Congress has expressed its displeasure with the lagging executive officers by time and again passing laws which allowed pay for the overtime which was imposed upon them. The act of February 25, 1899, compelled the payment of time and half time for those who were forced by reason of a war emergency to work longer than eight hours per calendar day.

Nearly all the great statesmen since the days of Grant, Sumner, and Wilson, and Dawes, and Conness have inveighed against the non-enforcement of the eight-hour law, and have each in turn advocated payment for overtime as a preventive for what they considered an unwarranted imposition upon the toiler.

The burden of the arguments of our opponents has been sifted down to two propositions, viz, "That the workingman wants to enjoy the liberty of working longer hours, and that to deprive him of that pleasure is unconstitutional, even though it is done by a stipulation in his own contract."

In view of the unanimous petition of labor the world over for a shorter workday, and the failure of the opposition to produce a single organization—yea, even a single individual workingman who desires to work longer hours—their first absurd contention falls of its own weight.

As to the second proposition, I beg to state that the decisions of the courts are all in our favor, even in cases which were brought to the courts as "men of straw" to be knocked down. So apparent was this that it was commented upon by the court, as will be seen by a careful perusal of the opinion of the district judge in the case of United States *v.* San Francisco Bridge Company (N. D. Calif., June 25, 1898), which I have quoted. The more recent decision of the Supreme Court of the United States, handed down by Mr. Justice Harlan, in the case of Atkins *v.* Kansas (191 U. S., 207), known as the Kansas case, holds that a State can make it a penal offense to violate a statute limiting the duration of a day's work on public works. Speaking of this statute, as applied to labor on public works, he said:

> We rest our decision upon the broad ground that the work being of a public character, absolutely under the control of the State and its municipal agents, acting by its authority, it is for the State to prescribe the conditions under which it will permit work of that kind to be done. Its action, touching such a matter, is final, so long as it does not, by its regulations, infringe the personal rights of others, and that has not been done.

The boulevard in question was a public work, wholly within the jurisdiction and control of the State of Kansas, being its property or the property of the municipality, which was a part of the State. Hence the statute as applied to Atkins case and like cases was and would be constitutional.

It means that an act like the act of August 1, 1892, is valid and constitutional and can be enforced. This was another of these cases which I have heretofore called "men of straw" cases, narrowed down purposely to undermine the decision which had been given by the Supreme Court in the case of Holden *v.* Hardy (169 U. S., 366), known as the Utah case, which limited the daily work of miners, and was declared to be constitutional because such work was found to be prejudicial to the public health.

In the Kansas case the legislature of Kansas had passed a statute which provided that the daily labor performed by laborers employed by the State, or by any municipality thereof, should be limited to eight hours, and that a laborer should be paid for eight hours' work, the customary wage for ten or more hours' labor of like character. Also that—

> Laborers, workmen, mechanics, and others employed by contractors or subcontractors in the execution of any contract or contracts within the State of Kansas, or within any county, city, township, or other municipality thereof, shall be deemed to be employed by or on behalf the State of Kansas, or by such county, township, etc.

The defendant had, by contract with Kansas City, agreed to make repairs on a public street. He made a contract with a laborer by which the latter agreed to work ten hours a day, contrary to the express prohibition of the statute. He proceeded to require that laborer to work more than eight hours a day. The case came on for hearing on an agreed statement of facts, which recited these things, and stated also that there was nothing in the work prejudicial to health; that there was no reason why the laborer could not perform ten hours' work of that kind in a day without harmful results. The agreed statement of facts was a "nice piece of work," so disingenuous, so artful, but not quite sufficient to pull the woolsack from beneath a Harlan. There was no dissenting opinion, and it is quite likely there will be no further eight-hour cases appealed to the Supreme Court to test their constitutionality.

The local carpenter's union, L. A. 1748, Knights of Labor, brought a case in the local police court against a contractor named Winnifree, who was building the Wallach school building and violating the eight-hour law thereon. The jury convicted the contractor and he was fined the limit of the penalty, which he paid and failed to have his case appealed to the Supreme Court. If the Parry associations or the anti-boycott associations really have any doubts as to the constitutionality of the law, why do they not appeal a case to the Supreme Court? Let them take an "armor-plate case," where the men work two shifts of twelve hours each instead of three shifts of eight hours each. Heretofore no lawyer ever denied the right of the Government to make and to enforce such contracts, nor was it ever seriously contended that it fell without the police power of the State or nation to enact such legislation. From a judicial standpoint, the arguments and the cases cited by the Parry association counsel are parricidal to their cause. and on account of the novelty of their contention I will ask you, for the purpose of illustrating the wide gulf between sense and nonsense, to place in juxtaposition an opinion written by the learned chairman of this committee on the subject as treated in H. R. 7389, Fifty-fifth Congress, and H. R. 6882, Fifty-sixth Congress, both of which bills had additional salutary features, which for some unexplained reason have been omitted from the bill H. R. 4064.

The bill (H. R. 7389) is in the nature of instructions by the Government to its agents. The first section prescribes the object of those instructions. The second section directs the agents of the Government to insert certain provisions into contracts to which the Government is a party, and to enforce such provisions by withholding the amount stipulated for the violation of them from the amount due the contractor, and forbids the remission of these penalties, except as therein specified. The third section provides for the criminal punishment of officers and agents of the Government who willfully violate these instructions. The intent to provide punishment for those representing the Government who willfully violate these instructions of the Government influenced the form of the first section.

The contention is to be made that Congress has not the power to enact these provisions and secure their enforcement, because such power is not specifically delegated in the Constitution, and because the United States has not jurisdiction over all the localities where the directions and stipulations of the act may be violated, and because the act invades the pardoning power of the President under the Constitution.

The cases cited generally as sustaining the view of those who oppose the bill have no application whatever, for the reason that they relate to the exercise of the legislative power over individual rights of citizens, or to the jurisdiction of the General Government over the locus of acts with which the Government had no business relations.

All governments—State, national, and municipal—legislate on two classes of subjects, i. e., the regulation of the rights and obligations of the people under their jurisdiction and the regulation of the business affairs of the government. It has never been contended that that section of the Constitution which provides that "the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States," could be invoked to set aside a provision in the State law which made citizenship a necessary qualification to perform given work for the State or to become a contractor with it for a building or materials. The absence of authorities on this point is explained by the simple fact that nobody has ever made the contention. The Congress is the agent of all the people in conducting the business matters of the Government, and any regulation it makes in the management of matters pertaining to that business is made for all the people and is the act of all the people. Jurisdiction to make these regulations and for the purpose of enforcing them is coextensive with the field necessary to their execution.

The Government has an inherent right to direct the manner of conducting its business affairs. The power to carry on government implies to the fullest extent the

power to regulate its business matters as "the power to declare war implies all the powers of sovereignty to conduct it in their fullest plenitude."

How is the question of constitutionality to arise under the penalty provisions of this bill? The stipulations prescribed by it once in a contract and violated, the penalty is to be retained.

How is the question of the constitutionality of the contract to be raised against the sovereign—a Government which can not be sued without its consent?

It is contended that this bill will fall on the question of jurisdiction of the National Government. Nobody would contend against the efficacy of a stipulation in a contract between the State of New York and a citizen of Tennessee for the polishing of marble in Tennessee, to be delivered at Albany, like that provided for in this bill. If it were known that the men who polish the marble in Tennessee had been employed in violation of the stipulation, the penalties would be retained in the State of New York. By what legal process could the other party to the contract get them out? What would the question of the jurisdiction of the State of New York over the Tennessee marble yards have to do with the question?

If this position is admitted, how does it come to pass that a purpose of the National Government fails for want of jurisdiction in Tennessee, when a like purpose on the part of a State could not be defeated for the same reason or by the same purpose?

The Government has the right to contract for ships, guns, horses, canvas, and all necessary Government supplies. Where is the line to be drawn between what stipulations may be and what may not be in the contract?

The Government employs a man to carry mail—a mail carrier—for so much per annum, and makes eight hours a day's work; this is admitted to be constitutional. It provides a punishment for a superior who orders him to work a greater number of hours; this power will not be denied. Suppose the carrier carries all the mail on the route or piece of territory. The Government contracts with A to carry all the mail from the station at C to the town of B and from B to the station at C, and stipulates that it shall be done within eight hours. If the interests of the business of the Government required the going and the coming should be within eight hours, nobody would dispute the power to make this stipulation. Those who deny the power of Congress to make this bill law must then rest their contention on the motive of the Government in putting the stipulation in the contract. If the provision is good if the business requires it, but bad if the business do not require it, how is the court to determine from the law a motive for the stipulation inserted by power granted in or by specific direction of a statute?

What are the legal motives which ought to move Congress in directing Government agents or contracting with citizens, and who shall inquire into and define them? Suppose this bill contained a preamble setting forth the conviction of Congress that all production of mechanical work were better when men were required to cease work at the end of eight hours.

What court would undertake to set a law aside on the ground that Congress was mistaken in its reasons for enacting it?

Again, if Congress determined that guns were better, more accurate, and therefore more effective in time of war when made by men who worked but a few hours a day—five, six, or seven—and directed that a contract authorized to be made for guns should stipulate in accordance with the views stated, what court would set aside the direction, or that part of the contract, on the ground that the judgment of Congress was in error about the result?

Or, again, suppose that the law authorized the contract and appropriated the money, but in the final section declared that the appropriation should be available only to pay for guns made by laborers who worked but seven hours a day. Is the court in this case to decide that Congress is mistaken and that the motive which moved it to the enactment of the proviso was founded in error, and therefore the appropriation was available independent of the proviso or that the act fell because of it?

Suppose this bill was entitled "An act to secure better results under Government contracts by working men fewer hours." Could the courts go into the question of the correctness of the theory indicated by the title?

The contention that this bill would in effect leave as available bidders for Government work only those who would adopt the eight-hour system in all their operations is of trivial importance, because that is not the intention of the bill; and if it could be so construed the objection is easily removed by a slight amendment.

The contention that the bill invades the pardoning power of the President, if valid, would need but three words of amendment to silence it.

It is submitted, however, that the violation of a stipulation in a contract is not a crime unless made so by legislation, and this act provides no prosecution for the violation of the stipulation by either the contractor or the subcontractor; and that the President by virtue of his constitutional prerogative without legislation could no

more remit a penalty for the violation of a contract than he could cancel the obligations of the Pacific railroads.

It is objected to the bill that the contractor becomes liable in penalties for the acts of his subcontractors and for the acts of a contractor with the subcontractor. It is very late to interpose this objection to a bill when the same is now true and has been true as long as the Government has been contracting for public structures. Indeed, so far as this bill would affect the contractor in this respect it would be a measure whose passage he might well seek to his own advantage, for it would give him a better status for his contracts with others in the execution of the work.

As to subcontractors, it is probable that a stipulation that penalties incurred by the contractors for their violation of the contract should be considered and adjudged as liquidated damages could be enforced in the State courts.

As to the scope of the bill, it goes for the saying that it only applies where work is done and materials furnished by contract, and never to anything purchased in the market.

It would not apply to those things generally "kept in stock." Bricks are kept in stock; house foundations and chimneys are not. Marble is kept in stock, pillars turned for porticoes are not. Stone is kept in stock at the quarry and at the yard; stone cut and faced for a building is not. Pig iron is kept in stock; armor plates are not.

The discussion of what has been called the policy of this bill has ceased. The only question now being discussed by its opponents is the policy of requiring contractors to conform to the policy already adopted. The Government avowed its policy thirty-one years ago, and has reaffirmed it at almost every session of Congress from then until now, and long since applied it to all the employees of the Government who did not work less than eight hours, and all its employees, except the few whose work is of a character to be done more at intervals, and which must require a greater period than eight hours, even though eight hours' labor is not performed.

ARGUMENT OF SAMUEL GOMPERS, PRESIDENT OF THE AMERICAN FEDERATION OF LABOR.

Mr. GOMPERS. Mr. Chairman and Senators, this bill now under consideration before your committee has been in more extensive form before the three last Congresses of the United States. The Committee on Labor of the House of Representatives had extended hearings upon the bill and each time reported it favorably. Each time the bill was passed by the House of Representatives by a practically unanimous vote. The opinions of the committee accompanying the favorable reports are, in themselves, valuable and historic documents, contributing much to the enlightenment upon this question of the shorter workday and the question as to the advisability, economy, and constitutionality of the bill.

In like manner the bill was considered by the Senate Committee on Education and Labor of the various Congresses, and was reported favorably by that committee. The reports accompanying the favorable recommendations of the Senate committee for the passage of the bill are of equal importance and value. The bill never came before the United States Senate on the proposition for its enactment or otherwise. At one time, in the Fifty-sixth Congress, I believe it came once to the attention of the Senate when it was supplanted by the naval appropriation bill which was then an essential measure, and as it was only a few days before the close of the session it took precedence and sidetracked our bill. We have every reason to believe, and we feel confident that if the bill had at any time come before the Senate upon a motion for its enactment in proper order, it would have passed the Senate and would have received the approval of President McKinley and now be a law. I believe there is no doubt about that in the minds of anyone who is familiar with the history of this legislation. President McKinley, in his message to Congress in 1900, took especial pains to refer to the extension of the eight-hour law.

Notwithstanding what the opponents of the bill have said as to the attitude of President Roosevelt regarding it, I can say to you that he also advocates the extension of the present eight-hour law, as you undoubtedly know of your own knowledge, and the statement can be verified by reference to his first and second messages to Congress. I think that no one can discover how the present eight-hour law can be extended in any other way than by the means provided in the bill now before this committee.

Senator DOLLIVER. It could be extended to include contractors for the Government without pursuing the subject into the detail of subcontracts.

Mr. GOMPERS. But the present law extends to contractors and subcontractors.

Senator DOLLIVER. On Government work?

Mr. GOMPERS. Yes, sir.

Senator DOLLIVER. I mean it could be extended to public works of the Government, and not on such things as the goods the Government buys or orders for various uses.

Mr. GOMPERS. In what way then can it be extended, if it is not extended to the contractors and subcontractors who do work for the Government?

Senator DOLLIVER. I say that it could be extended to contractors, such as shipbuilders, without extending back into the country to the iron people and the auxiliary industries that enter into the shipbuilding, could it not?

Mr. GOMPERS. I think not. We are met by a very peculiar set of circumstances. Some of the opponents to the bill disagree as to the scope of it. One opponent who appeared before you yesterday stated that its ramifications would reach to all industries, and that none could escape; while another said that it meant nothing, and that it excepted all.

Senator DOLLIVER. What I want to get at is this: The recommendations of the Presidents have always been in general terms. They have avoided the indorsement of any particular pending bill. Would it not be perfectly possible to extend the eight-hour law so as to include, for example, contractors in the business of building ships, without undertaking to pursue the subject any further? Would not that be an extension of the present law?

Mr. GOMPERS. I do not see how it would be possible to express that in a law or how such a law would stand the test of the courts, for that would indeed be, what this has been said to be by the opponents of the bill, special or class legislation as applying to ships and not to anything else.

Senator DOLLIVER. That could be included in general terms. Suppose now the eight-hour law of to-day were made to include such public works or quasi-public works as ships, and to govern the relations of the Government with contractors for such work, would not that be an extension of the present law?

Mr. GOMPERS. But it would be entirely ineffective.

Senator DOLLIVER. I am not talking about that. I am asking you whether it would not be an extension of the present law?

Mr. GOMPERS. It would be in terms but not in effect or in practice.

The ACTING CHAIRMAN. It would be an extension to a certain degree.

Mr. GOMPERS. But not in fact and not in practice. I do not want to attribute an improper purpose or motive to any contractor, but if

a contractor should undertake to contract with the Government for the construction of a ship upon the eight-hour basis and the law did not provide for its application to the subcontractor there would be nothing to prevent the contractor or shipbuilder from entering into a subcontract with one of its own friends, or with some concern created for the purpose, to construct that ship for it by subcontract.

Senator DOLLIVER. The law could absolutely govern that situation, could it not?

Mr. GOMPERS. If the law did not provide that it should apply equally to the contractor as to the subcontractor a simple understanding or pro forma agreement or assignment could be made which would avoid the operation of the law. The law then would not apply to the subcontractor for work constructed for the Government. According to our experience, the very spirit of the present eight-hour law has been taken out of it by the decisions. The spirit of the law was and is that it should apply to contractors and subcontractors on Government work; but, as has already been submitted to you in the statement of the advocates of this bill, the eight-hour law has only been held applicable when the contractors or subcontractors have operated upon Government land where the work was done. Upon a lot immediately adjacent to it the same contractor could carry on his work under a nine-hour or a ten-hour day.

Senator DOLLIVER. In other words the bricklayer who laid the brick on a public building would work only eight hours a day while the brickmaker in St. Louis who furnished them would work as he pleased?

Mr. GOMPERS. Yes, sir. Again, a stonecutter or an ironworker who was employed upon the structure would work eight hours a day, while the men who were employed on the same work on an adjoining lot, not Government land but land hired for the purpose, would be employed nine or ten hours a day.

Senator DOLLIVER. They would be working under a subcontract furnishing stone for the building?

Mr. GOMPERS. Sometimes, but more often for the same contractor and not for the subcontractor.

Mr. MCCARROLL. I have to leave at this time, and I would like to have the privilege of asking Mr. Gompers a question before I go, as I desire to get it on record.

Mr. GOMPERS. Yes, sir.

Mr. MCCARROLL. Does it not seem to you a little singular, not to say grotesque, for the representatives of the workingmen of the country to come before the Congress of the United States and ask that a law be enacted making work a crime and the workman a lawbreaker?

Mr. GOMPERS. I would like to ask the committee whether that is a fair question?

Mr. DOLLIVER. I think it is a question with which you are not entirely unfamiliar.

Mr. GOMPERS. Not entirely; and I shall undertake to answer that question in good time, so that our friend will be able to read it in the record.

Mr. MCCARROLL. I would be very much interested to get the answer to it now, as I have not time to wait for it. I will, however, be glad to see it in the record.

Mr. GOMPERS. I do not desire to anticipate my argument, as I have

it in my mind. I do not desire to avoid or evade the question, and if I forget it I trust I may be reminded of it.

I want to say something about how this bill originated, not for the purpose of complimenting any man, but in order that I may set some men right and that credit may be given where it is properly due. The representatives of organized labor, having had a number of opinions from the Attorneys-General and rulings by the court and opinions by different administrative departments of the Government, came to Congress soon after the enactment of the law of 1892 seeking to have some amendments made to the bill. When we appeared before the House Committee on Labor urging those amendments, the Hon. John J. Gardiner, then a lay member of the Committee on Labor, criticised our amendment and expressed the view that it would not stand the test of the courts. During an interesting address to the committee he indicated a thought by which a bill could be drafted which would not only be constitutional, but would be effective.

The thought conveyed was that the Government, acting as a contracting party, could make it one of the conditions of the contract that those who did work for the Government should do the work under stipulated conditions, to be set forth in the contract, and that by applying the contract feature to the bill a law could be passed which would be constitutional and effective. It was then within a day or two of the adjournment of Congress. I felt very much chagrined, and so expressed myself before the committee, that the bill had been before Congress for a year and a half and at that late day a member of the committee should express what appeared to us to be a judgment adverse, and properly adverse, to the amendment, and that he should be the one to suggest a feature by which the bill could be amended and changed so as to be constitutional and effective.

Our bill amendatory of the eight-hour law, however, was reported favorably. The bill died with the expiration of the Congress. Thereafter the representatives of labor were in conference with Mr. Gardiner frequently. He was reelected a member of the succeeding House and we urged his appointment as chairman of the Committee on Labor. We were gratified with his appointment. The conferences with Mr. Gardiner resulted in the first eight-hour bill containing the contract feature. I say to the opponents of our bill that they do no justice to Mr. Gardiner and pay me a compliment to which I am not entitled when they designate this bill, or either of the bills that have been before Congress containing this feature, as the "Gompers eight-hour bill." I mention this so that you may all understand something of the history of the bill.

Our opponents have said that there is no division of opinion among them as to the desirability of a shorter workday, but they say they do not want this legislation; that they do not want it by law. They are not opposed to the shorter workday speculatively, academically, platonically, but when it comes to the question of a shorter workday they say it is necessary for us to demonstrate our earnestness of purpose either by strikes to enforce it or by an understanding that we will strike unless it is conceded. When we come to Congress and ask for the enactment of a law upon the matter in the only way in which we can approach the Government in a matter of this character we are told that it is a matter for personal agreement between the employers and the workmen. It matters little to which line of action we may resort, we are met by the same opposition.

There is one thing that is exceedingly interesting in the attitude of the opponents of this bill. They all assign different reasons why it should not be enacted. If you have listened carefully to what they have said, if you have read the statements they have published in opposition to the bill, you will find that it is a mental rag carpet. There is no agreement between them as to the effect of this bill upon the employers, upon industry, or upon labor. They are united only in one thing, and that is in their opposition to it.

You have heard the statement made that if you enact this bill it will mean industrial destruction and financial ruin; that it will mean less wages; that it will mean idleness; that it will mean an increased cost in production; that it will mean the curtailment of production; that it will set back the wheels of progress and be the inauguration of a condition of affairs which will be wholly perversive of the interests of the people of this country.

I hold in my hand a document issued by the manufacturers' association, signed individually by a number of manufacturers of Trenton, N. J. I do not refer to it because of any peculiar significance attached to it, but only as indicating the unsoundness of the position of those gentlemen, both economically and industrially. I might say, however, that a number of the gentlemen and firms who have signed this document are now operating under the eight-hour system. And yet this document says that the enactment of this bill is dangerous and destructive, and its adoption, or even a partially favorable consideration of the bill before you, would mean all sorts of dire calamities. In other words, the very consideration of this bill by your committee will have these disastrous effects. In one part of this document they say that "in some instances a week's process in the preparation of material would likewise be prohibited."

Would these gentlemen who have signed this document have the committee understand that it is necessary to have one set of men for a continued period of a full week, day and night, work on this process in the preparation of material. If they should make that claim it would be absurd upon its face. If they do not intend to convey that idea then the other alternative is presented, and that is that at some time during the week certain men take up the preparation of this material where others have left off; that is to say, at the expiration of a ten-hour day or of a nine-hour day. If it is possible that the preparation of this material can be successfully undertaken and completed by a change of men at a certain period of nine hours or ten hours, why is it not equally possible that it can be accomplished by a change of men at the expiration of eight hours. Where is the logic in the argument that a change of shifts of men can be made to take up the work where others leave off at the expiration of nine hours, but can not at the expiration of eight hours?

I want to continue the further consideration of this document signed by these gentlemen, because it is typical of the arguments made by our opponents. The bill is stigmatized as non-American and as having anarchistic features. It says: "If you will consult the testimony it will more fully explain the views and sentiments of the undersigned." There was read to you yesterday speeches made by men whose names are revered and honored in American history, who have advocated an eight-hour law. They advocated the shorter workday. The House of Representatives has three times passed this bill in more extensive

form. The Senate Committee on Education and Labor has reported the bill at three successive Congresses, so that the advocates of this bill find themselves in pretty good company, even if they are men who represent "non-American and anarchistic principles."

In the same document we find the statement that the adoption of an eight-hour day would mean a ten-hour wage. Further on in the same document the statement is made that should the eight-hour bill become a law as to Government work an effort would at once be made to have it rule in all employments and make the life of a man who desired to labor and accumulate as uncomfortable as it must in time prove "unremunerative." You will observe that just a few lines above they say that the eight-hour day would mean a ten-hour wage, and here they say that the reduction of the hours of labor to an eight-hour day would be uncomfortable and unremunerative. How such a proposition can mean a greater compensation for the workingman and at the same time be unremunerative to the workingman I will leave to the opponents of the bill to explain. In another part of the same document the gentlemen refer to what they say is their fear of the loss of the foreign market.

The Department of Commerce and Labor has within the past ten days issued a statistical abstract containing a table of figures showing the extent of the export trade of the United States within the past ten years, and it shows that, notwithstanding the agreement in statement by the employers who have opposed this bill, that the hours of labor have been reduced within recent years, and that the trade of the United States has during that time increased more than 100 per cent. It shows that the United States is now the leading export nation of the world. I might say, just at this moment, that a country in which the hours of labor are long and the wages of the workmen are low is never a great manufacturing and exporting country. England is second in her export trade.

The ACTING CHAIRMAN. Have you a copy of that report?

Mr. GOMPERS. Yes, sir; I want to say that I had a table prepared from this report, which I handed in to the Committee on Labor of the House, which I should be pleased to have the opportunity of incorporating at this point.

The CHAIRMAN. Certainly you may incorporate it.

The table is as follows:

The total exports were—	
In 1893	$876,108,781
In 1894	825,102,248
In 1895	824,860,136
In 1896	1,005,837,241
In 1897	1,099,700,045
In 1898	1,255,546,266
In 1899	1,275,467,971
In 1900	1,477,946,113
In 1901	1,465,375,860
In 1902	1,360,705,935
In 1903	1,484,681,995

Mr. GOMPERS. Some of the opponents of the bill have stated that if the hours of labor are curtailed you will interfere with the foreign trade, upon which they say the American workmen now so largely depend for their employment. When we asked for a reduction of the hours of labor some years ago, we were met by the argument that we should not endeavor to secure a shorter workday because we were

then building up a foreign market. Now that the foreign market is established we are admonished not to ask for a reduction in the hours of labor for fear of the loss of that market.

With the reduction in the hours of labor opportunity comes and the necessity arises for the introduction of the highest and best developed machinery. In countries where the hours of labor are long and wages are low the most primitive methods of manufacture obtain. It is only possible in high-wage countries and in countries where the hours of labor are short to successfully introduce and operate highly developed machinery and propelling forces for machinery.

May I now ask your indulgence for a moment while I consider some the things that have been said by the gentlemen who have been before this committee with reference to this bill that are entirely foreign to it but have, nevertheless, been dragged into this discussion in the hope of prejudicing your minds against the organizations of labor, and the representatives of those organizations. Mr. Davenport appeared before this committee and the Committee on Labor in the House in opposition to this bill and said that he represented the Anti-Boycott Association and other associations. When asked as to the constituency which he represented he refused to give the names of any one who was associated with him and in whose name he undertook to speak. And yet he denied that the representatives of organized labor who appeared in advocacy of this bill did represent the workingmen, or the wishes of the workingmen, in spite of the fact that I submitted a list of names and addresses of more than 25,000 secretaries of as many local unions throughout the country, comprising in all more than 2,000,000 members, who were unalterably committed to the shorter work day and to this eight-hour bill.

During this hearing we have heard statements such as those that were made by Mr. Patterson yesterday. For him personally I entertain nothing but respect. But he appeared before this committee and spoke of a man whom he said appeared before him and stated that two other men—walking delegates, as he termed them—had sold out their constituents, and that this man who appeared before him hinted that he himself was for sale; that he was willing, for a consideration, to sell out the constituents in whose name he had been before speaking. Well, that may be true and it may not. I have had an acquaintance with the representatives of organized labor, local, national, and international, in, I think, every city in the country and every State in the country. I know the representatives of labor in other countries. I have no desire to assail anyone. I have no desire to make so general a statement as to say that there are not dishonest men in the ranks of labor, or that a so-called labor leader or walking delegate has not proven unfaithful to his trust. But the Sam Parks has been evolved out of the corruption of the manufacturers. He was corrupted by the manufacturers themselves, and he has been held as a type or as the type of the labor leader.

I want to say that I have also the honor of the acquaintance of a large number of business men, public men, and professional men. I am proud to say that I have the friendship of a number of them. I say, with a full knowledge of the responsibility which goes with the statement, that there is as large a number of honest, faithful, true men in the ranks of organized labor, to the cause of labor, and to the cause of the people of our country, as you will find in any walk of

life; and I will except none. Mr. Patterson, yesterday, in the course of what was supposed to be an argument against this eight-hour bill, said that the unions are all right if they are only "run right" and if they remain "within the law." That statement was unnecessary except for the purpose of conveying the idea that the labor organizations are not carrying on their work within the law. The same statement that the labor unions are very good so long as they remain within the law, applies to every other body on earth. It applies to the philanthropic associations. It applies to the churches. It applies to every man and every association that exists. I have no desire to excuse or apologize for the improper action of any man or any association.

If a man is guilty of any violation of the law there is a law providing for his punishment, regardless of whether he is a union man or not; but I resent the insinuation that lawlessness is a part of the work, of the administration, or of the purpose of organized labor. This is a species of the misrepresentations undertaken by the association of which Mr. Parry is the president and Mr. Cushing is the secretary, for which we are not responsible. But the misrepresentations are not confined to the representatives of organized labor. They have even gone so far in untruth as to merit and receive a rebuke from Senator McComas, the chairman of this committee, because of their misrepresentation and misquotation of his statements. They are desirous of making it appear that we are an unlawful association, that we violate the law, and that we are criminal in our conduct because we protest against the injustice, tyranny, and abuse of judicial power; but we are in good company also on that question.

Judge Brown, of the supreme court of Minnesota, in a recent decision, said:

> Labor organizations or unions are not unlawful, but are legitimate and proper for the advancement of their principles, and it is dependent upon them. The members thereof may singly or in a body quit the service of their employer for the purpose of bettering their condition, and may, by peaceful means to that end, refuse to allow their members to work in places where nonunion labor is employed.

Judge Oliver Wendell Holmes, of Massachusetts, said:

> It must be true that when combined they (the workmen) have the same liberty that combined capital has to support their interests by arguments and persuasions and the bestowal or refusal of advantages which they otherwise lawfully control. I rule that the patrol, so far as it confines itself to persuasion and giving notice of the strike, is not unlawful.

The New York Evening Post said, in an editorial:

> An injunction of this order, in making that criminal which the people, acting through their legislatures, have not made criminal, is setting aside the ordinary safeguard of the citizens, and is causing an innocent act to take on the consequences of a violation of the law from which it may have been carefully guarded.

The New York Herald said:

> To enjoin them (workmen) from resorting to moral suasion would seem to be unwarranted by law as by common sense, and is an infringement of the constitutional right of free speech.

I will read a few other quotations from men prominent in the history of the country to illustrate the attitude which they take toward organized labor and the effort it is making to improve the condition of the wage-worker:

"Hail to labor! Organize and stand together!"—(Wendell Phillips.)

"Thank God we have a system of labor where there can be a strike. Whatever the pressure, there is a point where the workingman may stop." (President Lincoln in a speeh at Hartford, 1860, referring to the New England shoeworkers' great strike.)

"I look to the trade-unions as the principal means for benefiting the condition of the working classes." (Thorold Rogers, Professor of Political Economy, University of Oxford.)

"Organized labor is weilding an influence upon every public question never attained before. The world's thinkers are now beginning to appreciate the fact that the demands of labor mean more than appears on the surface. They see that the demand for work is not alone one for the preservation of life in the individual, but is a human, innate right; that the movement to reduce the hours of labor is not sought to shirk the duty to toil, but the humane means by which the workless workers may find the road to employment; and that the millions of hours of increased leisure to the over-tasked workers signify millions of golden opportunities for lightening the burdens of the masses, to make the homes more cheerful, the hearts of the people lighter, their hopes and aspirations nobler and broader."

"Capital is the fruit of labor, and could not exist if labor had not first existed. Labor, therefore, deserves much the higher consideration." (Abraham Lincoln.)

"I rejoice at every effort workingmen make to organize. * * * I hail the labor movement. It is my only hope for democracy. * * * Organize, and stand together. Let the nation hear a united demand from the laboring voice." (Wendell Phillips.)

"It is clear that the working people of the State [New York] have reaped innumerable benefits through the influence of the associations devoted to their interests. Wages have been increased; working time has been reduced; the membership rolls have been largely augmented; distressed members have received pecuniary relief; general conditions have been improved, and labor has been elevated to a high position in the social scale."—(Commissioner Dowling, in report from bureau of labor statistics.)

"For 10 years," said Potter Palmer, of Chicago, "I made as desperate a fight against organized labor as was ever made by mortal man. It cost me considerably more than a million dollars to learn that there is no labor so skill d, so intelligent, so faithful as that which is governed by an organization whose officials are well balanced, level-headed men. * * * I now employ none but organized labor, and never have the least trouble, each believing that the one has no right to oppress the other."

"Labor is capital. Labor has the same right to protect itself by trade unions, etc., as any other form of capital might claim for itself."—(Cardinal Manning.)

"It is eminently dangerous and destructive to the best interests of the individual wage-worker to proceed as if there were no other wage-workers; and infinitely to his advantage to seek for and adopt measures by which he may move so as not to jar and perhaps overturn himself as well as others. * * * We declare that not only are organizations of workmen right and proper, but that they have the elements, if wisely administered, of positive advantage and benefit to the employer."—(National Association of Builders.)

"Organization, coordination, cooperation, are the right of every

body of men whose aims are worthy and equitable; and must needs be the resource of those who, individually, are unable to persuade their fellow-men to recognize the justice of their claims and principles. If employed within lawful and peaceful limits, it may rightly hope to be a means of educating society in a spirit of fairness and practical brotherhood."—(Bishop Potter.)

"Trade unions are the bulwarks of modern democracies."—(W. E. Gladstone.)

"No wage-earner is doing his full duty if he fails to identify his own interests with those of his fellow-workmen. The obvious way to make common cause with them is to join a trade union, and thus secure a position from which to strengthen organized labor and influence it for the better." (Ernest Howard Crosby, president Social Reform Club, New York.)

"Attacked and denounced as scarcely any other institution ever has been, the unions have thriven and grown in the face of opposition. This healthy vitality has been due to the fact that they were a genuine product of social needs—indispensable as a protest and a struggle against the abuses of industrial government, and inevitable as a consequence of that consciousness of strength inspired by the concentration of numbers under the new conditions of industry. They have been, as is now admitted by almost all candid minds, instruments of progress. Not to speak of the material advantages they have gained for workingmen, they have developed powerful sympathies among them and taught them the lesson of self-sacrifice in the interest of their brethren, and still more of their successors. They have infused a new spirit of independence and self-respect. They have brought some of the best men to the front, and given them the ascendency due to their personal qualities and desirable in the interests of society." (John K. Ingram, LL. D.)

"A principle in the economy of our lives must be established, and that is a living wage, below which the wage-workers should not permit themselves to be driven. The living wage must be the first consideration either in the cost or sale of an article, the product of labor."

But, gentlemen, the question whether labor organizations are conducted properly or otherwise has no relevancy whatever to the bill now under consideration before this committee. The only purpose of our opponents is to make it appear that our movement is an unlawful conspiracy against the law and against the country, and a violation of the fundamental principles of our Government. It is the intention to poison the minds of the people against our movement. They evidently believe in the policy that if they sling mud enough and long enough some of it will stick.

Some of the opponents of this bill have indicated that it is the purpose of organized labor to impress upon the minds of its members and have the opinion go forth among workingmen that they should be shiftless, that work should be shirked, and that duty should not be performed.

Of course one can not meet all the accusations that are made. One man can make more charges against another in five minutes than the accused can disprove in half a lifetime. We can only meet a few of the most important of the statements and charges that are made against us, and disprove them to intelligent men. We do not entertain the opinion that we can change the judgment of either Mr. Parry,

Mr. Cushing, or Mr. Davenport. Their interests lie in different directions. The important mission in their lives seems to be to manufacture malicious falsehoods regarding labor organizations and the representatives of organized labor.

I have here about twenty official publications of as many different international trade unions. The thought occurred to me this morning that it might be of some interest to the members of this committee to look at a few of these. I spoke to one of my clerks in the office of the American Federation of Labor over the telephone and asked that a few of these journals be sent here. You will notice that in this one I hold in my hand, "The International Wood Worker," which is the official journal of the Amalgamated Wood Workers International Union of America, there is a section devoted to technical information, containing drawings and explaining their application to woodwork, prepared by Mr. Owen B. McGinnis, one of the best-known designers in construction in the United States, and this technical information is continued from month to month in every publication.

I have here also The Carpenter, the official journal of the United Brotherhood of Carpenters and Joiners of America, which contains craft problems and designs for practical wood carving, drawings, plans, diagrams, and explanations running all through it. I have here also the Bricklayer and Mason, containing practical drawings for bricklayers in their trade, showing how to construct a brick gothic window, how to lay out any curve on an arch without finding the center, and full of practical information for stone masons, containing diagrams, explanations in the art of the trade. All these official journals are filled with historical, philosophical, and practical knowledge for the benefit of the men of the craft. There are not less than 90 of these international unions which publish official journals, and in nearly every one of them technical information is given to the workingman. They offer prizes for the best solution of industrial problems in their respective trades and crafts, in order to better fit the men to do their work. Much of this is supplied in order to take the place of the loss of knowledge and technique by the workmen in their respective crafts by reason of the division, subdivision, and specialization which has taken place in the industries.

There is a standing rule among labor organizations that a man who is a member of an organization must perform a fair day's work. What our opponents object to is that, in turn, we ask for a fair day's pay and a reasonable number of hours. They are like Mr. Patterson; without regard to the views of the workmen, they want to arbitrarily determine what is a fair wage and what constitutes a reasonable number of hours.

I have no hesitancy in saying that some employers are fair with organized labor. But who is to determine that which is fair? What is the gauge? Those who perform the work think that they should have some voice in determining that which shall be accepted as the standard of what is fair and what is reasonable.

I have no desire to discuss chattel slavery; but I think that every one realizes that under the old slavery days the master always regarded his treatment of his slaves as fair. If the slave had an opportunity to express his opinion, without fear of punishment, there might have been a different version as to the fairness of the treatment. It makes all the difference in the world who is to determine what is to be considered and understood as fair.

Our opponents say let this matter alone, and the law of supply and demand will regulate it, because the law of supply and demand is an immutable law. One of them went so far as to say that it is an almighty law. In primitive society and under ordinary conditions of life the law of supply and demand operates; but is it true, as our opponents say, that the law of supply and demand is immutable and that anyone who undertakes to interfere with its operation will injure and destroy themselves. What are the associations of employers doing? What are the trusts doing when they limit production, when they close down their plants for a given period? What is that but an interference with the "immutable" operation of the law of supply and demand? The mines close down by the direction of a few men and production ceases for a given period. They say, in the language of the directors, that it is in order to give the market an opportunity to recover itself. What is that but an interference with the law of supply and demand?

It is all very well to interfere with the law of supply and demand when it is done by the capitalists of the country, but it is an entirely different story when the workmen endeavor to have something done which shall mitigate the most cruel features of the law of supply and demand if its manipulations are left to the juggling of the employers. Do our opponents permit the natural operations of the law of supply and demand to be invoked when they scour the poorest countries of the earth and bring hordes of men into the United States to glut the labor market? When we had the representatives of the employers before the Congressional committees having under consideration the bill to exclude the Chinese, they wanted the hordes of Chinese coolies to come into the United States in order that they might be thrown into the balance against the workingman of our country. But when those hordes come here, those who would have them come here throw their hands into the air and declare that the almighty and immutable law of supply and demand stands in the way of any legislation having for its purpose the improvement of the condition of labor.

It is true that there is now more agreement than formerly between the employers and the employed—between employers and organized labor—as to the conditions of employment and the hours of labor. I submit to you that if the employers refuse to concede that which we regard as fair conditions in the last analysis that we have not only the legal but the moral right to strike in our effort to enforce them.

In what other way can we approach the Government of the United States than in the way we have done? The United States is our employer in so far as the provisions of the bill under consideration are concerned. The Federal Government lets out contracts simply as a matter of convenience. There is no inherent right that any contrctor has to a contract with the Government. As a matter of convenience the Government of the United States lets out by contract to certain persons or firms the building or construction of certain things. We insist that in the character of an employer, direct and indirect, the Government has the right to insist upon certain specifications and conditions, and among those conditions the one that an eight-hour workday shall be observed for all purposes. Part of the title to the bill in one of the former Congresses was "For the purpose of improving the character of work and of workmen."

There is also this further feature: Suppose the Federal Government

of our country should be engaged in a dispute with a foreign country, under present conditions, with no law governing the hours of labor. Suppose there should be a general demand for the reduction in the hours of labor by the workingmen in a given industry, and the workingmen employed by contractors doing work for the Government of the United States, and, in pursuance of their own interests, these workingmen should refuse to work unless their demand for a shorter workday was granted, and should strike for the enforcement of that demand. Would it not be regarded as practically an act of treachery to the Government of the United States? In all this work, practically, the Government is our employer, and for a shorter workday on work for the Government we must secure it by law. Gentlemen, the position of our opponents is untenable.

The opposition have insisted that a thing contracted for by the Government does not become Government property until it is finally delivered and accepted by the Government. Let me say that, as you well know, all the raw material entering into any contract for the Government is examined by the inspector and approved. Every article that goes into the construction of, we will say, a battle ship, or that enters into work done for the Government, must pass an inspection by the representative of the Federal Government. When the parts are completed, upon information given to the United States warrants are drawn and those contractors receive payment for the parts which have been completed. If it be true that the Government, in the last analysis, may reject the entire article when completed, then I think it is also true—I am not sure, and I would prefer to ask whether my conception of it is right—that the contractor could not sell the article without the consent of the Government of the United States.

The ACTING CHAIRMAN. Do you mean after rejection?

Mr. GOMPERS. No, sir. If the Government has contracted for, say, the construction of a vessel, the inherent right rests in the Government to reject it when completed; but the contractor who has built that vessel for the Government has no right to sell it without the consent of the Government.

The ACTING CHAIRMAN. In the absence of a contract to the contrary he could sell it, subject to liability under his bond to furnish the article according to the contract.

Mr. GOMPERS. Take the case of a war vessel. Suppose the Government enters into a contract with a company for the construction of such a craft and when the vessel is completed the contractor prefers to sell this vessel to another government or to another concern for perhaps a higher price. Would the contractor have the right to sell that vessel, or would the right rest with the Government of the United States to levy upon it and insist upon compliance with the contract to deliver?

The ACTING CHAIRMAN. As a war measure it might. I am not prepared to say what exigency would warrant a seizure; but, in the absence of a contract to the contrary, I think the right to a specific performance would hardly obtain. What is your judgment about that, Senator Burnham?

Senator BURNHAM. I suppose not. Here is a contract with a bond for the performance of the contract, and the contract must be carried out or the bond forfeited.

Mr. GOMPERS. But there is no "absence of a contract;" in fact, it is specifically provided in the contract that the vessel must be delivered.

That the Government has the right to insist on inserting specifications in the contract and demanding that certain conditions be complied with as conditions precedent to the acceptance of a completed article, I think goes without saying; and that, after all, is the feature with which we are concerned in this bill.

Mr. Hayden spoke here yesterday in regard to a statement made by me before the Committee on Labor of the House, and by Mr. Duncan before this committee, in regard to the building of a battle ship for the Russian Government by the Cramp Shipbuilding Company. He stated that the reason why the Cramp Shipbuilding Company could build that Russian war ship in two and a half years, when the French shipbuilders wanted five years for its construction, was because the Cramps operated a nonunion plant. His statement is not accurate with reference to the Cramp yard being a nonunion plant. There are quite a large number of employees in the Cramp shipbuilding yard who are members of various unions. Perhaps the spy system of hounding down men interested in the labor movement and the malicious lying about them to the employers has been such that they have not yet found out whether the Cramp employees belong to labor organizations or not. But concede, for the sake of the argument, that the statement is accurate and that the yard is nonunion.

I wonder if Mr. Hayden would have this committee believe that the Cramp Shipbuilding Company can build a ship in two and a half years, when the French shipbuilders need five years to complete it, simply because the Cramp Shipbuilding Company is a nonunion plant. How about the Newport News Shipbuilding Company? How about the Union Iron Works? How about the Government's own shipyards? I am told, upon very good authority, that the Brooklyn Navy-Yard now has under construction a naval vessel similar in character to one that is to be constructed in the Newport News plant. The employees of the Brooklyn Navy-Yard started upon their vessel one month after the other concern started the building of a similar craft. I am advised that the Brooklyn Navy-Yard is now about 12 per cent behind the construction of the vessel in the other plant. In other words, it is fully holding its own.

I take pleasure in saying that the Brooklyn Navy-Yard is almost entirely manned by members of organized labor of the various crafts and trades. It is an absurd claim. The truth, gentlemen, is simply this: That the hours of labor of the American workman are less than those in France, and that the better ingenuity of American manhood and the application of the highest and best developed machinery which is only possible in high-wage and short-hour countries makes this greater ability possible. It is a mistake for anyone to believe that we have reached the limit of improvement.

I do not know whether the opponents of this bill will take what I am about to say graciously or otherwise; but I say in all fairness and in all candor, and it is not a question of judgment or opinion, but it is borne out by every step in the industrial history of the United States and of the whole world, that a further reduction of the hours of labor will accelerate and give a greater impetus to the introduction of still greater improvements in machinery and propelling forces than now obtain, and greater than is now even dreamed of by the employers of labor.

Prof. John Graham Brooke, at a meeting which I had the pleasure of attending some time ago, said, in discussing the question of hours

of labor, that if you want the best out of a man that you possibly can get in the shortest possible time, you should work him twenty-four hours a day, and then you will have him all in in about a day and a half or two days; that if you want to get the best out of a man for a period of five or six years you should work him about sixteen hours a day; that if you want to get the best out of him for ten or twelve years work him ten or twelve hours a day; that if you want him for about fifteen years work him ten hours a day; but if you want the very best out of a man for the whole period of a prolonged life have him work eight hours a day. With that view I entirely concur. I can not say, and no other man can say, what the limit of the demand will be in the future. I think it is generally accepted that the day is most scientifically and judiciously divided into eight-hour sections—eight hours for work, eight hours for rest, and eight hours for improvement—mental, moral, physical, and social improvement.

May I divert a moment at this point to say that one of the great evils complained of by the publicists is that in our elections—municipal, State, and national—there is often a great horde of men who vote, either one way or another, without having a conciousness of the responsibility the vote carries with it. They have no proper conception of the duties of citizenship and of the franchise. But you can not say that of the men who work eight hours a day. In elections—national, State, and municipal—I have seen cases where employers have, by indirection and sometimes by express terms, intimidated and overawed their workmen to vote in a particular way. I have seen notices in plants which said that unless a certain man was elected to such a city office the plant would close indefinitely or would close for a specific period. In itself it was a perfectly lawful statement for the employer to make; but I know also, that when such a statement was put up in a plant where the members of one of our unions were employed those men sent a committee to the employer and said that unless that notice came dawn within an hour they would quit work.

The notice simply meant to those men that unless they voted a certain way, in the way the employer of the company wanted them to vote, they would be discharged. I want to say to you, gentlemen, that such notices do not remain up in a union plant. I want to say to you that such notices are not given to eight-hour workmen. The men who work eight hours a day have time to ascertain and learn and study the great questions that are before the American people. With a better wage and with more leisure to improve their mental and physical health comes independence, manhood, and a better citizenship.

There has never been a matter of legislation for which we have asked, whether it be this bill or the uniform car-coupling bill, for which we asked some ten years ago, in order that the lives of trainmen in railroad service might be saved from the destruction that was going on, or the bill for the creation of the Department of Labor, or the child-labor law in the States, or the law for the improved ventilation of mines, when we have not been met by the opponents and short-sighted employers, with these same arguments in opposition to that legislation. They have not only opposed them upon practical grounds, but their attorneys have always flung into our faces the Constitution of our country. We realize that the Constitution must not be invaded or infringed upon; but we can not be made to believe that the Constitution was ever designed and formulated for the purpose of preventing a material improvement in the condition of the people.

They speak of liberty. I know of no advocates more earnest and sincere in a desire to advance liberty than are the members of organized labor. But of what does liberty consist? Is it the shout and hurrah during an election campaign? Does it consist simply in the declaration that George Washington is the Father of our Country, for whose name and memory we have so great a reverence? Does it consist in simply regarding Lincoln as the great emancipator and martyr? Does it simply consist in singing pæans to the great military chieftain, Grant? No; liberty consists not only in the exercise of the rights of man, but in material improvement and improved conditions. There is no such thing as liberty where the people are impoverished. There is no such thing as real liberty where the people toil long hours every day. Heine expressed it once when he said, "Bread is liberty; liberty, bread." It conveyed the idea that the material conditions determine in the largest degree what constitutes liberty.

We are told, Mr. Chairman, that the workmen do not want this bill; that they do not want to have an eight-hour law. Some of our opponents have gone so far as to say—I use their language—"We represent all labor." As the lion may be said to represent the lamb whom he has devoured, so they perhaps represent some workman whose bones they have ground into their coffers by long hours of labor. But, gentlemen, there has never been, in the entire history of labor in the United States, any gathering of workingmen which was brought together for the discussion of questions relating to the interests of labor or the relations of labor with the employer that has not declared, without a dissenting voice, in favor of a reduction in the hours of labor.

Only two years ago, before this committee, the opponents of the bill said that the workingmen did not want it. One of the representatives of the Bethlehem Iron and Steel Works declared that their employees had petitioned them and begged them to interpose against this bill becoming a law. At that time I happened to be invited to deliver an address or lecture before the Lehigh University, and during the day I was approached and asked whether I would not attend a meeting that had been called for the purpose of discussing the immigration question. The invitation also stated that if I cared to I could discuss the shorter-hour proposition and organized labor. I accepted the invitation. When I had finished my address one of the workingmen of the Bethlehem Iron and Steel Works offered a resolution—which was an entire surprise to me—declaring that the sense of the meeting, which was largely composed of the members of the Bethlehem Iron and Steel Works, was in favor of the shorter workday, and particularly of the bill before Congress under consideration. I say to you, gentlemen, that you could not gather 25 workingmen in the United States who do not advocate a limitation in the hours of labor, which is the very contrary of the view which our opponents are endeavoring to bring before you.

I desire to explain to you one of the features of the agreement between the employers and the union with reference to overtime. Our opponents try to make it appear that the provision in the agreements with the employers whereby overtime is designated is an indication that the organizations favor overtime, but simply want additional pay for it. The truth of the matter is that when the agreement with the employers was first made providing for the hours of labor there was no reference made at all to overtime. The employers, realizing that

fact, introduced overtime at the regular ordinary pay. Sometimes they would work overtime and then they would say, "This is extra for you, and we will divide the hour's pay between us. Then I will have a little additional profit out of this." They worked overtime because it was not against any agreement or understanding, but finally the men in their organizations wanted to prohibit and prevent it, and they then put provisions in the agreement to the effect that time and a half and in many instances double time should be paid for overtime and double time for Sundays and holidays.

Those provisions were not put into those agreements in order that the men might receive extra compensation for overtime, but were put in there to penalize it out of existence. Of course if there is any extraordinary emergency involving loss of life or loss of property, then overtime is not only proper, but is essential, and it is provided for in this bill. And this is my answer to the question asked me by Mr. McCarroll.

It is neither singular nor grotesque for the representatives of the workingmen to come before Congress and ask for the enactment of a law to limit the hours of labor on work for the Government. Under modern industrial conditions the hours of labor should not be more than eight in any one day. The workingmen of the country have so declared it on every occasion, and unless an extraordinary emergency requires work at any time, for which this bill provides, workmen and enlightened employers, as well as public men, agree that eight hours, and not one moment longer, should constitute a day's work.

Organized labor was just articulating, just making its first appearance, when the conventions of both political parties of the country, in 1868, inserted in their platforms a concession and demand for an eight-hour workday, and when President Grant issued his proclamation for an eight-hour workday, and Congress passed the concurrent resolution, which was simply declaratory, for an eight-hour workday.

I want to emphasize, by repetition if necessary, and to impress upon the minds of every one within the sound of my voice that there has never yet been a gathering of workmen which has not unalterably stood for an eight-hour workday. I have said to our opponents, I have said to Mr. Parry, that I will meet him to discuss this matter.

I say to Mr. Davenport, and I say to any of the gentlemen representing the opposition, I do not care who they are, profound in letters though they may be, learned in the law though they are, experienced as attorneys and pleaders, filled with eloquence, rhetoric, and the gift of speech—I will meet them. I am a man who has toiled at his trade for twenty-six years out of a life of fifty-four, and who has had no more schooling than that of a boy who was put into a factory a little after he was 10 years of age. I am conscious of my defects, yet I will meet any of them before a gathering of the most learned men in our country, whether they be legislators, professors, political economists, employers, workingmen, or a mixed assembly of either and all—I will meet them in defense of the proposition of the economy, the wisdom, and the advantage of the movement to reduce the hours of labor. I will meet them, not because I possess any power or ability in the presentation of a case (because my deficiencies I feel keenly and deeply), but because I am conscious that I represent the right.

I may say to you, gentlemen, that I belong to a craft composed exclusively of piece workers. Years ago, before our organization

existed or before it took cognizance of the regulation of the hours of labor, those members worked "any old hours," as it has been termed. They were not interfered with by anyone, and they worked usually starting in on Tuesday afternoon. They worked on from early in the morning until late at night. For perhaps a week they worked as long as they could and applied themselves to it, and perhaps the next week they would be "off."

In 1884 the organization (of pieceworkers), in convention, had under consideration the proposition of a local organization, because everything in that organization is conducted by the initiative and the referendum. They had before it a proposition to limit the hours of labor to ten hours per day. The resolution was acted on by the convention, was submitted to a vote, and adopted by the members. Within two years thereafter, as the result of that legislation, a resolution was proposed in the same way and approved by the convention and sent back to the membership by a referendum vote, and it was adopted by a very much larger majority than the first proposition. That second proposition was one to limit the hours of labor to eight per day, and it went into effect on the 1st day of May, 1886. From that day to this the eight-hour day has been in operation by all the members of the Cigar Makers' International Union of America, voluntarily adopted, voluntarily proposed, considered, discussed, and ratified.

There never has been a proposition made by any single member in the entire continent of America, and that is the jurisdiction of the organization, asking for a modification or repeal of that law of the organzation. From a motley and poorly conditioned, ignorant body of men, under the old conditions and prices, the craft to which I am proud to belong is now a body of men who are regarded the country over as men who are as well-informed, as well-mannered, as active, and as self-respecting citizens, workmen, fathers, and husbands as are any workmen in our land. It has been due entirely to what our opponents would say was an invasion of their God-given natural right to work as long as they pleased.

Mr. SCHULTEIS. Before you leave that subject, would you object to my asking you a question?

Mr. GOMPERS. No, sir.

Mr. SCHULTEIS. You spoke a while ago of addressing a meeting at which a representative of the Bethlehem Steel Company was present. I remember the incident perfectly. When you were addressing a meeting at the Bethlehem Steel Company works in Pennsylvania a resolution was offered asking for the indorsement of the eight-hour bill. At that point in your remarks before the committee you were diverted and you did not state the result of that resolution. As I remember it, the vote was unanimous for the indorsement of the eight-hour bill, and that in spite of the fact that the Bethlehem Steel Company's representative was here before these committees stating that their workmen did not want an eight-hour day.

Mr. GOMPERS. Yours is an exact statement of the fact.

The ACTING CHAIRMAN. What are the hours of work for the cigarmakers who are not members of the union?

Mr. GOMPERS. Usually about nine hours a day; but there are not many of them that work more than eight hours a day now, even those who are not union men.

In this connection I might say that I have received a copy of a Pitts-

burg paper, which was sent to me by special-delivery mail, announcing that the great iron and steel plant of Jones & Laughlin has gone upon the eight-hour basis, and that the nonunion workmen threatened to strike unless that was conceded. That is the largest iron and steel plant in the city of Pittsburg, and one of the largest in the country outside of the United States Steel Corporation. This article says:

The concessions granted the men employed at the Twenty-seventh street mill of the Jones & Laughlin Company, which include an eight-hour day and last year's scale, is considered most important. As is known, the plant is manned with men outside of the Amalgamated Association, and the concession will have a tendency to keep them out of that organization for another year. The men have been working twelve hours, and the granting of an eight-hour day means the employment of one-third more men in the departments affected by the change.

The granting of so important a change as the eight-hour day by so large a concern it is thought will have some effect on the disposition of the eight-hour bill before Congress. The men, it is understood, had agreed to walk out, although unorganized, had the concessions not been made, and had they done so it is thought they would have made application to reenter the ranks of the amalgamated association.

The officials of the Jones & Laughlin Company were holding a meeting this afternoon and could not be seen on the question involved in the new arrangements made with the men.

This article says that "This concession will have a tendency to keep them out of the organization for another year." Perhaps the prediction of the newspaper man who wrote this article is wrong. It may be two years, it may be three years, or it may be five years. It makes but very little difference whether they come in next year or five years from now, but I say to you the future is ours. They will come in despite the combined attacks of Parryized employers. It is coming. The organizations of labor have waited; they have waited; they have struggled, they have struggled, and they have hoped. If it be necessary they can wait and wait. Every obstacle that we remove from the path of development and the growth of the organizations of labor means that we are so much the surer that this great industrial problem is going to be settled peaceably and rationally.

I have had occasion to say elsewhere, and I will say it here and now, that there are two ways by which great material and social improvements in the condition of the people come about. One is the method of the French Revolution, and the other is the method of the great Anglo-Saxon race—by the use of rational methods and concessions along the line of evolution in the solving of problems. Of course the Bourbons are always against progress. They are always against concessions of any kind. They are always against the common people, which is a term which is often used and too often abused. For, as one great man has said, "When common sense and the common people have stereotyped a principle into a statute then the bookmen come to explain how it was discovered and on what ground it rests." President Eliot, of Harvard University, recently said, in discussing the question of labor unions: "There is some clear gain to the whole community from the progressive rise in the prices of labor and material. Since labor unions began to put up wages, invention has been strongly stimulated thereby."

I hold in my hand a clipping which is the reproduction of an article from the Boston Transcript, in which the growth in the production of pig iron in the United States since and including 1872 is given. In 1872 the total annual product of pig iron had grown to 2,548,713 tons. In 1880 it was 3,825,191 tons, and the following year over 4,000,000. By 1891 it had risen to 8,279,870 tons, and ten years later to 15,878,870

tons, while last year it reached 17,821,307 tons. And this occurred despite the reduction in the hours of labor, It is, in fact, largely because of the reduction in the hours of labor.

In connection with the statement I made a few minutes ago about the influence of the shorter workday upon the workman, I should add that it has entirely eliminated "blue Monday" among the workingmen. You do not hear anything about "blue Monday" among eight-hour workmen.

I say to you, Mr. Chairman, that the organizations of labor have grown at the same time with the growth of industry and the concentration of industry. In the old times when the individual employer hired one, two, or five men there was no organization, or very little, among the workmen. There was some understanding upon their part that the opportunity of going upon the land as a last resort gave them a degree of independence. They owned their own tools and could go from one place to another with their tools. To-day the great plants have taken the place of the individual employers. The man does not own his own tools of labor. Industry has become divided and subdivided and specialized. Great machines help to do the simple parts of a great whole and the workman becomes a part of a great machine.

Our opponents talk of men losing their individuality when he joins a union labor organization. That is simply absurd. As soon as a workman enters a modern industrial plant he has lost his individuality. No longer is he a whole workman in the sense of the position he occupied some years ago. He is simply one little cog in the great wheel of industry. He is one atom in the great aggregate of employees who furnish the finished product. If the workman of to-day expects to regain something of his individualty as a man and a workman which he has lost as an artisan in his trade or craft, it is necessary for each and all to unite in order for them to represent the makers of the whole produced article, the finished product.

Of course the organizations of labor are growing in the same proportion that industries develop, and the organizations of labor will continue to grow, despite everything the opposition may try to bring forth, despite all of their abuse, despite their talk about the Gompers eight-hour bill and the Gompers-Mitchell anti-injunction bill, and despite their caricatures of us in the alleged comic papers, as breeders of discontent. These things will do no good so far as eliminating the organizations of labor is concerned. It is like the shamrock of the Irishman, "the faster you pluck them the thicker they grow."

You can not drive out this natural growth of the organizations of labor, any more than you can drive out of the human heart the desire for better hopes, for better conditions, and for a better life. A people may be born in slavery and die in slavery and never know what freedom means; but the workingmen of America have tasted freedom. They know what real liberty is, that liberty which comes from the power of united organization. They have tasted that freedom.

You might as well attempt to turn back the torrents of Niagara with a broom as to try to crush out the organizations of labor. The time is coming when the organizations of labor are going to grow into still greater proportions. The time will come when the fact that a man is a nonmember of a union will be proof in itself that he is industrially, mentally, and morally incompetent, and this is now fully established in many of the older and larger unions.

Mr. Abram S. Hewitt once said: "It is not to be denied that until labor presented itself in such an attitude as to compel a hearing, capital was not ready to listen."

There is one other subject to which I desire to call your attention for a moment. As you know, we are going to have a great exposition shortly, under the direction and by the authority of the Federal Government. An invitation was extended to the American Federation of Labor to have an exhibit at that exposition. We had an exhibit at the Paris Exposition in 1900, for which we received the first gold medal and a diploma. We had an exhibit at Buffalo and that was the last we heard of it. We have accepted the invitation of the authorities of the St. Louis Exposition to have an exhibit there. I submit here to you a blue print of the extent of our exhibit. I have in my hand a list of the articles and things, historic, philosophic, industrial, social, and material which we will exhibit there. I should prefer not to mention them now because I prefer to have the exhibit speak for itself. I have here reduced photographs of some of the things we are going to exhibit on charts, which indicate, in different colors, at a glance to the investigator or visitor the work and methods, and a few of the achievements of the American labor movement.

Gentlemen, the conventions of the American Federation of Labor are held in the open. The representatives of the press are in attendance. College professors, students, the sympathizers with labor, and the opponents of labor all come there, and each may draw his inference as he pleases from our proceedings. There is no forum in the whole world freer than the forum of the American Federation of Labor in its conventions. There is no forum in the world in which a man has a freer or more untrammeled opportunity for the expression of his own views than there. All of our work, with a copy of all of the literature we publish, everything in print which we send out to our organizations throughout the country will be in our exhibit at the St. Louis exposition, and I hope, gentlemen, it may be my privilege to include in that exhibit, as an indication of the progress of the wage-earners of this country toward better conditions, a copy of the bill now under consideration before this committee, having upon it the seal of approval of the legislative and executive branches of this Government.

The manufacturers' spy detective association, some time before the convention of the American Federation of Labor, sent out secret and confidential circulars to their employers offering to sell them the proceedings of the American Federation of Labor convention for a subscription of $15 each, when, as a matter of fact, they could have gotten an official printed copy of the proceedings for 25 cents. We publish them at a loss simply in order that the world may know what we do. You will find them in the Library of Congress and in every public library; in every university or college of note of which we know. We send to them our official printed proceedings, our official journals, and our official circulars. We invite the inspection of the world because we have nothing to hide. I call your attention to this fact simply because of the charge that we engage in underhand, secret, and stealthy work; that we are guilty of crime and lawlessness which the enemies of labor seek to place upon the good name of the men who have tried their level best to give their lives to a cause in which they believe and of the justice of which they are convinced.

Gentlemen, the representatives of organized labor have time and again been compelled to report to the convention of the American Federation of Labor the failure to pass this bill, assigning the reasons which were assigned to us for its failure of enactment. I want to say to you, gentlemen, that the American workmen, even unorganized, wants a shorter workday. Only a few of the organizations of labor, through their representatives, have appeared before you for their convenience as well as your own, in order to try to bring within decent limits these hearings that have been prolonged and repeated and repeated by our opponents in one Congress after another, in the effort to sidetrack it so that the sessions of Congress might come and go and yet the bill fail to pass. We ask for this measure your favorable consideration. We know that it is not a cure-all for the ills of men. I would not want a cure-all if I could introduce it in a moment. I believe in the matter of the growth and evolution of intelligence, but I also believe that we ought to do all that we possibly can to make the struggle of the workman as light as possible and to help lift from him some of the burdens.

I do not want a law to do things that can rationally and naturally be done by the men themselves. I believe in the exercise of that great Anglo-Saxon principle of men doing for themselves, and by the associated effort of the individual man with his fellows to bring about better results. But where Congres can I think it should help along this work, when it does not interfere with the exercise of the individual right of initiative of the citizens to do for themselves.

I appeal to you not to disappoint us again. I hope it will not again be necessary to report our disappointment to our fellow-workmen of the country. It is said that Congress will adjourn within a week or two and that it will not reconvene for the next session until December, and then we shall again be told that the bill has not passed and is not a law, and we will have to report more disappointments. I submit that it is not good and does not contribute to the very best to be compelled to report to two million organized workmen constant disappointment in the enactment of a measure that is within the limits of reason and has for its purpose the material, moral, and social improvement of the workman. I submit that it will tend for the great good of the people and will injure neither the Government of the United States nor the employer, nor violate any of the principles underlying the Government of our beloved country.

I trust that our prayer may be heeded and that before the adjournment of this session of Congress we may proclaim to our fellow-workmen and to our fellow-citizens that this bill has been enacted into law. The employers will see, I am sure, in time, as other employers have learned by experience that the shorter workday means greater industrial extension, wider commercial prosperity, more permanency of success, a greater and better manhood, a higher and better life for all, and the result will be that we, in truth, will be the leaders in industry and commerce and in the moral and social struggle for the uplifting of the world.

I thank you, gentlemen.

The committee thereupon adjourned.

LIST OF WITNESSES.

O

S B 489—04——16